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The Solicitors' Journal

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The Solicitors' Journal

VOL. LXXVIII. **Saturday, November 24, 1934.** No. 47

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Current Topics.

Judicial Inaudibility.

RECENTLY correspondents have complained in the columns of *The Times* that so many members of the Bench are found to be quite inaudible at times while delivering judgment. Law reporters and shorthand writers suffer most acutely from this unfortunate propensity of certain judges of dropping their voices, usually at the most critical portions of their pronouncements. Some years ago a similar complaint was made, and we can recall that Lord (then Mr. Justice) DARLING expressed himself as seriously concerned regarding it, although, it should be added, he himself never gave occasion for criticism on this score. The failing of some members of the Bench to speak sufficiently loudly so that all can hear is no doubt due to a momentary forgetfulness of the fact that those engaged in the task of taking down their words must, if they are to present an accurate transcript, hear what they say. Nowadays, of course, no one suffers any dire consequence by venturing to call attention to this judicial foible; it has not always been so, however. Lord COCKBURN, whose memorials and journal are an inexhaustible quarry of good stories of the old Scotch judges, tells us that a certain zealous Whig baronet, who "had long nauseated the civil court by his burgh politics," had committed something in the nature of a contempt of court, and their lordships were discussing the amount of the penalty which should be imposed. Lord Eskgrove, a very eccentric old gentleman, began to give his opinion in a very low voice, but loud enough to be heard by those next to him, to the effect that the fine ought to be £50, when the baronet, with his usual imprudence, interrupted him and begged him to raise his voice, adding that if judges did not speak so as to be heard, they might as well not speak at all. Eskgrove, who could not endure an imputation of infirmity of any kind, turned to the judge next to him with the question, "What does the fellow say?" "He says, that if you don't speak out, you may as well hold your tongue." "Oh, is that what he says? My lords, what I was saying was very simple. I was only saying that in my humble opinion, this fine could not be less than £250 sterling," this being roared out as loudly as his angry voice could launch it. This was hardly playing the game, but it showed that criticism of inaudibility in judges was sometimes attended by awkward consequences.

Motor Traffic Repercussions.

RARELY can we open our daily journals without finding in them some new and startling consequence of the immense increase in motor traffic—an increase which has proved so serious a menace to the safety of the pedestrian. This striking change arising from the advent and development of the motor car has had its repercussions in the legal, as in other, spheres, and not least in the character of many of the cases which have come before the courts involving troublesome questions on the construction of the different statutes passed in the endeavour to regulate the proper use of these vehicles. One of the novel features of the growing litigation on this subject is the not infrequent instance of guests of motorists suing their hosts for damages arising in consequence of negligent driving. Although actions of this kind were not altogether unknown in the pre-motor-car days, they were rare indeed, as to sue one's host was, to say the least of it, thought to be a very ungracious act. Now, however, in view of the fact that in all accident cases it is an insurance company that will have to bear the brunt where damages are awarded, there is less delicacy in launching actions of this kind. How far this is being carried is illustrated by a recent decision in Scotland: *Young* v. *Rankin* (1934), Scots Law Times 445, where a lad of sixteen, who was injured in a collision between the car, in which he was being driven by his father, and a car driven by a third party, sued both his father and the third party, claiming damages. The question in debate was whether such an action was competent at the instance of a minor against his father. The Lord Ordinary—that is the judge of first instance—ruled in favour of its competency, and on appeal to a court of seven judges it was held by a majority that the decision was correct in point of law. A powerful dissenting judgment was delivered by Lord HUNTER, who invoked Roman law (on which much of Scots law is based) as not only discountenancing, but disallowing, any action either on the part of a child against his parent or by a parent against his child. He also postulated this case: An infant child suffers injury by falling out of its insecure cradle, and some benevolent friend is able to aver that the cradle was insecure owing to the neglect of the father; in such circumstances would an action lie? In his opinion it would not. But, as the late Lord SUMNER observed on one occasion, we read dissenting judgments for edification and cannot allow them to obscure the fact that they are dissenting and therefore not binding. So far as we are aware, no action of this kind has yet been before the English courts.

Road Fund Statistics.

THE extent to which motor traffic on the roads has increased during recent years is amply illustrated in the statistics contained in the Report on the administration of the Road Fund for the year 1933-34 issued by the Ministry of Transport. It appears that during the period 1921-1933 (inclusive) the number of motor vehicles in Great Britain has grown from 873,700 to 2,282,000, while the number of driving licences has increased from 1,106,000 to 2,947,000. There was estimated for 1933 to be one motor vehicle for every twenty persons of the population, and one driving licence for every

fifteen persons. An increase from £10,042,000 to £28,357,000 in gross receipts less rebates and refunds is also recorded. Gross receipts from the taxation of motor vehicles were £29,201,133, licences being issued in respect of 2,282,014 mechanically-propelled and 27,670 horse-drawn vehicles. The figures for 1932 were £28,431,766, 2,219,220 mechanically-propelled and 33,412 horse-drawn vehicles, representing an increase of 2.83 per cent. in the number of mechanically-propelled vehicles licensed, and a decrease of 17.18 per cent. in the number of horse-drawn vehicles on which excise licence duties are payable. Payments into the motor tax account at the Bank of England totalled £31,577,716 as compared with £28,702,370 in the previous year. The amount paid into the Road Fund was £25,512,000, which, with receipts under the Road Traffic Act, 1930, was increased to £25,755,366. Direct payments to highway authorities of £13,221,458 were made in respect of grant-aided works and other purposes, and £6,458,556 was the amount of general Exchequer contributions by way of block grants to local authorities. The Report is also highly informative as to the works carried out during the year to modernise road conditions. In England, north of the Humber-Mersey line, 2,000 corners were improved under special arrangements with the Ministry, 462 "major road ahead" signs were constructed, and super-elevation was introduced at 412 curves in the counties of Durham and Northumberland. In the Southern Division (eight counties) 43 miles of additional footways were constructed, banking was introduced on 110 miles of bends, and 104 "major road ahead" signs erected. Figures for the whole of Great Britain were not available. Grants towards the cost of installing and maintaining light signals for traffic control at road junctions and other methods of traffic regulations amounted to £164,441 as compared with £88,343 in the previous year. The Report expressed the hope that more and more attention would be given to the provision of footways along important routes, a matter on which highway authorities all over the country were drawing up programmes.

Ribbon Development: Preventive Legislation.

A RECENT important letter emanating from bodies concerned with the manufacture, etc., of motor cars, motor road users and the preservation of the countryside, and addressed to the Prime Minister, urges the desirability of emergency legislation to combat the evil of ribbon development before it is too late. Reference is made to the joint message sent by the Ministers of Health and Transport to a conference lately convened at Southampton by the Council for the Preservation of Rural England. The Ministers described ribbon development as ugly, uneconomic and potentially dangerous, and stated that they were engaged in a joint study with a view to finding ways and means of checking its evils and inconvenience. Pending the devising of more comprehensive measures, there appears to be a good case for emergency legislation in view of the rapid increase of the evil and the probability that the time of Parliament during the present session will be fully occupied. The county councils of Surrey, Middlesex and Essex already have powers to check this form of development, and *The Times* suggests that similar powers should be conferred upon all county and county borough councils. Lord Onslow, speaking at the Mayor's banquet at Guildford recently, alluded to the difficulties experienced in practice in Surrey, and mentioned a scheme under which landowners would convey to the county council without any money consideration land on either side of the roads sufficient to make up a total width of 180 feet between fences. The land conveyed would be let to the landowner at a peppercorn rent until he wished to develop, when a subsidiary carriageway (so planned as to prevent its user by through traffic) and a footpath would be constructed. Subject to a fixed sum payable by the landowner, the cost of construction would be met by the council. *The Times* mentions the unlikelihood of various counties adopting the same standards, and suggests that the conversion of the great trunk roads into *routes nationales*, wholly and directly controlled by a central road authority, may have to be considered.

The New Session.

PARLIAMENT was confronted with a heavy programme on its opening last Tuesday. Among measures contemplated are the Indian Constitution Bill, the text of which is expected to be circulated during the Christmas recess, the Housing Bill, the Electricity (Supply) Bill, a Bill to provide legislative powers in connection with Government plans to relieve the depressed areas, and a Bill to increase the number of judges in the King's Bench Division by two. It is intimated that sometime next year the Minister of Health will bring forward a Bill to deal with such alterations as may be necessary in the National Health Insurance system, in view of the first report of the Government Actuary on the Contributory Pensions Acts, and legislation may be introduced to give effect to the recommendations of the Gorell Committee on Civil Aviation, which have been accepted by the Air Council. The regulations prepared by the Unemployment Assistance Board will also require consideration. The work of the Standing Committees, which will be of an arduous character, will be lightened to some extent by the new powers conferred on the chairman to select amendments for consideration.

Tithe Rent-Charge.

INTERESTING points on the tithe question emerge from the evidence given recently before the Royal Commission at Westminster under the presidency of Sir JOHN FISCHER WILLIAMS, K.C. Lieutenant-Colonel WALEY COHEN, a member of the Central Chamber of Agriculture, expressed the opinion that the main force behind the movement against tithes was an economic one. The amount of tithe to be paid should to some extent depend upon a farmer's ability to pay as far as the produce of the land was concerned. Ability to pay should not involve inquiry into private means. Mr. A. B. BARNES, a member of the Incorporated Society of Auctioneers and Landed Property Agents, referred to the great difficulties of the collection of tithe where an apportion or group area consisted of a number of parcels of land in various ownerships, and to the difficulty and expense, especially in fees to the Ministry of Agriculture, if the owner of one parcel wished to redeem the tithe on it apart from the others. Mr. F. C. KRAILING, F.N.A.A., farmer and auctioneer, mentioned a case where the owner of part of one tithe apportionment was sued for the tithe on the whole, had to pay and was unable to recover anything from the others. In another case an owner of three acres washed away by the sea was sued successfully for the whole of the title, including that on the part washed away. He suggested the issue of a Government loan to be repaid in principal and interest by the tithe-payer in twenty-five years, and expressed the opinion that the argument that the tithe-payer knew that tithe existed when he acquired the property had no relevance in the case of anyone who acquired property before 1925, the Act of that year having increased the liability by 40 per cent. above the 1913 level. In the course of a recent address to the Auctioneers' and Estate Agents' Institute, Mr. A. J. BURROWS, a past-president of the institute, suggested that, the stabilisation figure of £105 having proved to be too high owing to unforeseen conditions, a new figure (to be called the 1934 datum) based on an amended agricultural index number should be computed. Tithe, he thought, should become a yearly variable payment. The Minister of Agriculture and Fisheries lately announced that for the purpose of the redemption of tithe rent-charge for which application is made after 1st November until further notice, the compensation for redemption will be thirty-one times the net amount of the charge after the deductions prescribed by the Tithe Acts, 1918 to 1925, have been made.

Sign-posting Footpaths.

In an article appearing in *The Times* last Tuesday, a more adequate indication of the existence and direction of rural footpaths is advocated, and objection is taken to the practice of warning notices which, designed perhaps to induce pedestrians to keep to the footpath, are often so placed as to suggest that the path itself is private. The writer mentions, as an example, public rights of way through golf courses marked "—— Golf Club. Private Property. Trespassers will be prosecuted." One of the difficulties is, of course, the obscurity under which the origin of a right or licence to traverse a footpath may be veiled, and the position is often not rendered clearer by landowners and farmers who can hardly be expected to advertise rights of way over their land. Much can be done by local authorities, and in some cases is being done, while the general position will ultimately be clarified by the Rights of Way Act, 1932. We venture to quote the concluding paragraph of the article referred to, and to express our entire agreement with its contents. "The rapid development of building in the country near London may encourage landowners to welcome the disappearance of footpaths, and further out the villagers' indifference, since everybody now rides a cycle on the road, to the old rights of way may lead to their obsolescence; but the surest way to prevent both from disappearing is for lawful authority to provide sign posts."

Compensation for Slum Clearance.

At a demonstration convened by the National Federation of Property Owners and Ratepayers in conjunction with the Property Owners' Protection Association, and held recently at the Central Hall, Westminster, a resolution, passed unanimously, calls upon the Government to make provision in the forthcoming Housing Bill for "equitable" compensation in respect of property included in clearance schemes. We have already dealt with this subject, and do not propose to cover the same ground again. It may, however, be noted, one of the speakers made it clear that the meeting sympathised with the Government's determination to abolish property unfit for human habitation, while another suggested that the present basis of compensation in a clearance area should be repealed, and there should be substituted for it the compensation basis which applies to an improvement area. Lord Chesham, the president of the Federation, said he hoped that the resolution would have the effect of convincing the Government that their complaints against certain items of the Housing Acts were not merely the complaints of one or two people, but were widely held throughout the length and breadth of the land.

Recent Cases.

In *Re Smith: Trevor* v. *Goodhall* (reported at p. 839 of this issue) Clauson, J., upheld the validity of a gift of a share of a fund to the Bishop of Stepney to be applied by him for the increase of the endowments of one or more of the poorer parishes in his "diocese." There is no Diocese of Stepney. The Bishop acts as suffragan to the Bishop of London and occupies a quasi-episcopal position in regard to a particular area. The share was to be paid to the Bishop of London with the consent of the Bishop of Stepney for application among the poorer benefices in the latter's district.

In *H.M. Postmaster-General* v. *Birmingham Corporation* (also reported at p. 840), Goddard, J., held that works in connection with the alteration of telegraph lines under a housing scheme were within s. 15 of the Telegraph Act, 1863, and had therefore to be performed by the plaintiff at his own cost. Section 7 of the same Act which, in effect, casts the burden of undertakers of works, did not apply, because in the words of the same section the corporation was proceeding under an "enactment" in the exercise of general statutory powers. The "enactment" need not be some Act specifically authorising the particular work being executed.

Car Driven by Friend.

The owner of a motor car is, of course, liable if an accident occurs through his own negligent driving or that of his authorised servant, but what is the position if, as often happens, the car is being driven by a friend? Is the owner liable for damages resulting from his friend's negligence? The question has several times been considered by the courts in varying circumstances.

Samson v. *Aitchison* [1912] A.C. 844, came before the Privy Council on appeal from the Court of Appeal of New Zealand. A Mrs. C had approached the appellant with regard to purchasing a new car. He had offered to sell one to her, but before deciding she had arranged for her son, who was a chauffeur, to see it and the car was later taken out for a test by the appellant along with Mrs. C and her son. During the run the appellant handed over the driving of the car to Mrs. C's son, and whilst the son was at the wheel, and in consequence of his negligence, an accident occurred in which the respondent was injured. The judge of first instance and the majority of the New Zealand Court of Appeal held that the respondent was entitled to recover damages from the appellant. The Privy Council confirmed this decision, and in delivering the judgment Lord Atkinson said the trial judge had laid down the law on the question with perfect accuracy in the following passage:—

> "I think that where the owner of an equipage, whether a carriage and horses or a motor, is riding in it while it is being drawn, and has thus not only the right to possession, but the actual possession of it, he necessarily retains the power, and the right of controlling the manner in which it is to be driven, unless he has in some way contracted himself out of his right, or is shown by conclusive evidence to have in some way abandoned his right. If any injury happen to the equipage while it is being driven, the owner is the sufferer. In order to protect his own property if, in his opinion, the necessity arises, he must be able to say to the driver, 'Do this' or 'Don't do that.' The driver would have to obey, and if he did not the owner in possession would compel him to give up the reins or the steering wheel. The owner, indeed, has a duty to control the driver. If the driver is driving at a speed known to the owner to be dangerous, and the owner does not interfere to prevent him, the owner may become responsible criminally (*Du Cros* v. *Lambourne*). The duty to control postulates the existence of the right to control. If there was no right to control there could be no duty to control. No doubt if the actual possession of the equipage has been given by the owner to a third person—that is to say, if there has been a bailment by the owner to a third person—the owner has given up his right of control."

Another case was *Pratt* v. *Patrick* [1924] 1 K.B. 488, where the plaintiff sued under Lord Campbell's Act in respect of the death of her husband who had been killed while travelling at the defendant's invitation in his car. The defendant had been present and also one E, another friend, who was actually driving when the accident occurred. Although the defendant had occasionally driven his own car, he was not in the habit of doing so, and E had previously driven for him. Acton, J., held that the principle enunciated in *Samson* v. *Aitchison*, *supra*, applied, and the defendant could not escape liability because by a "casual delegation" he had entrusted the actual physical management of the car and its mechanical control to E, whose negligence it was that caused the collision.

In the two cases dealt with above, the owner of the car was present though not actually driving at the time of the accident. There have been cases, however, where the owner was not present.

In *Reichardt* v. *Shard* (1914), 31 T.L.R. 24, the motor car had been negligently driven by the defendant's son at the time of the accident to the plaintiff. The defendant was not present, but his driver was sitting beside the son, and the

defendant in evidence said he permitted his son to use the car, though never without the driver. The Court of Appeal held the defendant liable. Stress was laid by Buckley, L.J., on the fact that the father always insisted that the chauffeur should accompany his son when motoring. Could that, the learned lord justice asked, be said to be giving up the control of the car? It appeared to him, he continued, to be a reasonable view to take that having regard to the person who accompanied the son there was no evidence to go to the jury that the defendant had given up control of the car.

In *Parker* v. *Miller* (1926), 42 T.L.R. 408, the defendant's car had been driven by a certain L, who, after setting the defendant down somewhere, had brought the car back to his own house, where he left it outside on a steep gradient. For some unexplained reason the car, after remaining at rest for a while, started running down the hill and crashed into the plaintiff's house, where it did considerable damage. The county court judge held that the fact that the car, having been left unattended, ran down the hill by itself was sufficient evidence of negligence and that the defendant was responsible as principal. It was argued for the defendant that before he could be held liable it must be shown that he was on or in actual proximity to the car when the accident happened, but the Court of Appeal held that there was evidence upon which the county court judge was entitled to come to the conclusion to which he did come. In a very briefly reported judgment Scrutton, L.J., observed that the test of agency in cases of negligence had ever since *Quarman* v. *Burnett* (6 M. & W. 499) been not physical control, but right to control.

The recent case of *Monk* v. *Warbey and others* (reported 78 Sol. J. 783), shows that, apart from the common law, the Road Traffic Act, 1930, has in certain circumstances imposed liability upon a car owner for a third party's negligence. The defendant W had loaned his car to two friends, who had no insurance against third-party risks, and by their negligence the plaintiff was injured. W's insurance only covered risks when the car was in his control, so that in letting his two friends take it out without being insured he was committing a breach of s. 35 (1) of the Road Traffic Act, 1930. The plaintiff sued W and his friends and obtained interlocutory judgment against the friends, which, however, they were unable to satisfy, so he proceeded against W. It was not contended that the defendant W was responsible for his friends' negligence on the ground of agency, but the action was based simply upon the defendant's breach of his statutory duty to insure. The Court of Appeal held the defendant liable. Probably most car owners insure fully against risks, whether the car is driven by themselves or not, and *Monk* v. *Warbey* shows the importance of this, since, with only partial insurance, a car owner will apparently be saddled with personal liability for his friends' negligence, even though the circumstances may not be sufficient to involve common law liability as in the cases referred to above.

The case of *Du Cros* v. *Lambourne* [1907] 1 K.B. 40, mentioned in *Samson* v. *Aitchison, supra*, is interesting as showing how an owner may even be criminally liable though not physically controlling his car. The appellant had been convicted summarily for driving a motor car at a dangerous speed. Quarter sessions, on appeal, found a conflict of evidence as to whether the car was being driven by the appellant or by a lady who had been with him, but, without deciding whether he was himself driving or not, quarter sessions dismissed the appeal on the ground that if the lady was driving she was doing so with the appellant's consent and approval, and he, being in control and knowing that the speed was dangerous, could and ought to have prevented it. The Divisional Court, on further appeal, held that there was evidence upon which the appellant might be convicted of aiding and abetting the offence, and the validity of the conviction was not affected by the fact that the appellant was not charged with aiding and abetting, but with having driven the car himself.

Damages for Collision at Sea.

The rule of *restitutio in integrum* is sound in principle, but it may occasionally work injustice. In *The London Corporation* [1934] W.N. 189, two collisions had occurred, viz., in December, 1932, and January, 1933, while the plaintiffs' steamship "Benguela" had been moored in the River Blackwater, Essex, close to the s.s. "London Corporation." The vessels ranged, and each suffered damage (by contact with the other) and the joint surveyor assessed the damage to the "Benguela" at £250 and to the "London Corporation" at £230. In June, 1934, a writ was issued against the owners of the "London Corporation," but a settlement was agreed (as both vessels were equally to blame) and the damages were referred. The registrar held that the plaintiffs were entitled to half the cost of their repairs, but the defendants moved in objection to the report. They pointed out that in May, 1933, the "Benguela" had been sold, as she lay, to shipbreakers in Italy—on condition that she was broken up and never again sent on a trading voyage. Her price was £4,200, and the defendants contended that—as there was no evidence that her scrap value had been diminished by the collision—the plaintiffs had suffered no damage. Mr. Justice Bateson held, however, that the plaintiffs' right to compensation was not affected by what they afterwards chose to do with their vessel. The fact of her being sold to shipbreakers was no evidence that she had realised more, or less, than if she had not been in collision. As the case was not one of consequential damage, the plaintiffs were entitled to recover the amount of the actual damage, and the motion was therefore dismissed, with costs.

This decision was in accordance with that in *The Glenfinlas* [1918] P. 363, in which the defendants admitted liability in respect of a collision with the s.s. "Western Coast." The latter vessel incurred actual damage to the extent of £616 10s., but the repairs would not have been carried out until after the war. In November, 1917, the "Western Coast" struck a mine, and sank, but Mr. Registrar Roscoe (assisted by merchants) nevertheless held that the above amount was recoverable. He disallowed a claim for the estimated cost of dry-docking, and damages for detention, as this was consequential damage, and it would have been more than *restitutio in integrum* to give damages for a detention which would never occur.

The argument that the cost of repairs was not recoverable, unless and until they had been executed, was also unsuccessful in *The Kingsway* [1918] P. 344. That vessel had been held to blame (by Sir Samuel Evans, P.) in a collision with the s.s. "Grampian," the repairs to which were estimated to cost £2,155 after the war. The District Registrar and merchants at Liverpool allowed this item, but the defendants petitioned in objection to the report, which was confirmed by Mr. Justice Hill and the Court of Appeal. Lord Sterndale (then Lord Justice Pickford) observed that the case provided a novelty in the assessment of damages in the Admiralty Court, although an examination of the probable circumstances in the future was an every-day estimate in the common law courts. Lord Justices Bankes and Scrutton concurred, the latter observing that, owing to the peculiar circumstances of the war, the problem of prospective damage had presented itself for the first time in the Admiralty. The principles on which it should be settled, however, had been determined for years by the principles of the common law—e.g., when a man is injured and his injuries will last for a considerable time. The appeal against an award of prospective damages was therefore dismissed, with costs.

The right of shipowners to make their arrangements after a collision, without prejudice to any claim for the damage to their vessel, was established in *The Mediana* [1900] A.C. 113. That vessel sank the "Comet," a lightship, and the Mersey Docks and Harbour Board claimed £310 6s. for loss of use of the "Comet," or for the hire of their reserve lightship

while the "Comet" was being refloated. The District Registrar at Liverpool allowed the claim, and his decision (having been reversed by Mr. Justice Phillimore, as he then was) was restored by the Court of Appeal—Lords Justices A. L. Smith and Collins. The House of Lords affirmed this judgment, and Lord Halsbury, L.C., observed: "What right has a wrongdoer to consider what use you are going to make of your vessel? Supposing a person took away a chair . . . could anybody say you had a right to diminish the damages by showing that I did not usually sit in the chair, or that there were plenty of other chairs in the room?" Lord Brampton pointed out that, as between themselves and the wrongdoer, the board were under no obligation to use their reserve lightship. If they had hired another vessel, the liability for the hire would have been clear, and the appellants were equally liable for the use of the vessel which the board had prudently kept in reserve.

Nevertheless, maritime law appears to work harshly, compared with the law applied in an analogous situation on shore. A house in disrepair may be compared to a ship after a collision, but the tenant is not liable for damage for breach of covenant, if (as provided by the Landlord and Tenant Act, 1927, s. 18) "it is shown that the premises . . . would at or shortly after the termination of the tenancy have been or be pulled down." A demolition corresponds to sending a vessel to the shipbreakers, and to award damages in such a case savours of the infliction of a fine—a matter outside the jurisdiction of a civil court, which should concern itself with damages only.

Benefits under Intestacies of Murdered Persons.

It is well settled law that a person guilty of either murder or manslaughter or any person claiming through him cannot benefit under the will of a person whose death he has caused. In *Cleaver* v. *Mutual Reserve Fund Life Association* [1892] 1 Q.B. 147, at p. 156, Lord Justice Fry stated the rule: "It appears to me that no system of jurisprudence can with reason include amongst the rights which it enforces rights directly resulting to the person asserting them from the crime of that person." If no action can arise from fraud, it seems impossible to suppose that it can arise from felony or misdemeanour. In *Crippen's Case* [1911] P. 108, Sir Samuel Evans stated: "It is clear that the law is that no person can obtain or enforce any rights resulting to him from his own crime; neither can his representative, claiming under him, obtain or enforce any such rights. The human mind revolts at the idea that any other doctrine could be possible in our system of jurisprudence." Probably the rule would apply to all cases of crime resulting in the death of a person, but not to excusable or justifiable homicide—*Lundy* v. *Lundy* [1895] 24 Canada Supreme Court Reports 650; see also per Joyce, J., in *Houghton* v. *Houghton* [1915] 2 Ch., at p. 176.

Until the recent decision of Mr. Justice Clauson in *In re Sigsworth; Bedford* v. *Bedford*, 78 Sol. J., 735, there was a serious conflict of judicial opinion as to whether a person or one claiming under a person who has caused the death of another by his criminal act could succeed to any of the property of the deceased on an intestacy. The question had been carefully examined by Mr. Justice Joyce in *Houghton* v. *Houghton* [1915] 2 Ch. 173, in which a coroner's inquisition had found that a man murdered his brother and father. Subsequently, the man was tried at the assizes and found to be guilty but insane at the time he committed the act with regard to the brother, and the charge in respect of the father was therefore not proceeded with. Both the brother and the father died intestate and the widow of the father took out a summons to determine whether the man who had committed the crime was entitled as one of the statutory next-of-kin to his personal estate, or was precluded on the ground of public policy. Mr. Justice Joyce pointed out that if the trial for the murder of the father had been proceeded with, the accused would have had to be tried under s. 2 of the Trial of Lunatics Act, 1883, and having regard to the decision in *Felstead* v. *Rex* [1914] A.C. 534, the accused, if actually tried, would have been acquitted of any criminal offence, even if found guilty of the act of killing his father. The learned judge, however, also held that as the distribution of property on an intestacy was regulated by positive provision of the statute law, there was no reason why the "murderer" should not take his proper share under the intestacy of his father. His lordship pointed out that the question was the subject of conflicting decisions in America, and quoted with approval the words of an American judge in *Carpenter's Estate*, 50 Am. St. Rep. 765-767: "How can there be a public policy leading to one conclusion, when there is a public statute directing a precisely opposite conclusion? In other words, when the imperative language of a statute prescribes that, upon the death of a person, his estate shall vest in his children—in the absence of a will, how can any doctrine, or principle or other thing called public policy, take away the estate of a child, and give it to some other person? . . . There can be no public policy which contravenes the positive language of a statute."

As against this clear decision there are *dicta* (described by Mr. Justice Clauson in *In re Sigsworth* (above) as "more than mere *obiter dicta*") of Lord Justice Fry in *Cleaver* v. *Mutual Reserve Fund Life Association*, *supra*, as well as a strong *obiter* view expressed by Mr. Justice Farwell in *Cox* v. *Kilsby* [1931] 1 Ch. 546, at p. 550. In *Cleaver's Case* it was held that, although the death of an insured person was caused by the felonious act of his wife, his executors, who had effected the insurance on his life for his wife's benefit could maintain an action on the policy, as the trust created by the policy in favour of the wife under the Married Women's Property Act, 1882, s. 11, had become incapable of performance by reason of her crime, and the insurance money therefore formed part of the estate of the insured, no question of public policy arising as between his legal representatives and the insurers. Lord Justice Fry, after enunciating the rule quoted at the beginning of this article, said: "This principle of public policy, like all such principles, must be applied to all cases to which it can be applied without reference to the particular character of the right asserted or the form of its assertion . . . it must be so far regarded in the construction of Acts of Parliament that general words which include cases obnoxious to this principle must be read and construed as subject to it." In *Cox* v. *Kilsby*, *supra*, Mr. Justice Farwell held that the estate of a person who was found guilty but insane in respect of a charge of murder could benefit under the intestacy of the murdered person, as there was no *mens rea* as postulated by public policy. In the course of his judgment, Mr. Justice Farwell said: "If it had been necessary to decide the point I should have thought that the views of Fry, L.J., in *Cleaver's Case* would prevail, and the provision of the Administration of Estates Act, 1925, s. 46, however peremptory, would be read and construed subject to the public policy rule. But it is unnecessary, and I do not decide it."

In *In re Sigworth*, *supra*, the question whether a person guilty of murder could benefit under the intestacy of his victim arose directly for the decision of Mr. Justice Clauson. Verdicts were returned at two inquests that a son had murdered his mother and feloniously killed himself. Mr. Justice Clauson held that, subject to the assumption that the son murdered the testatrix and survived her, the plaintiff as personal representative of the son clearly could not take any benefit under the will of the testatrix, and the result was that the testatrix must be treated as having died intestate. His lordship held that the views of Fry, L.J., in *Cleaver's Case*, *supra*, and Farwell, J., in *re Pitts*, *supra*, must prevail over the view taken by Joyce,

J., in *Re Houghton*, *supra*, and that, therefore, it was against public policy for a murderer or anyone claiming under him to benefit under the intestacy of his deceased victim. The new decision now finally settles what has hitherto been the subject of an unfortunate conflict of judicial opinion.

Company Law and Practice.

Contracts Inconsistent with a Company's Articles.

QUESTIONS of some difficulty not infrequently arise with regard to the respective rights and liabilities of a company and an individual director or managing director under the terms of an agreement, the provisions of which are not entirely reconcilable with the articles of association. The question I have more particularly in mind is that of the duration of office where the agreement provides that office shall be held for a fixed period, whilst under the articles the office is liable to be terminated at some time before the expiration of that period, and where there is no express provision in either the agreement or the articles to decide which of the two is to prevail. Suppose, for example, that a company, through its directors, enters into a contract with A, whereby A agrees to take shares in the company, and it is agreed that he shall be appointed a director and that so long as he continues to hold the shares he shall remain a director; what is the position if the articles contain fairly usual provisions for the termination of a director's office on the happening of certain events (*cf.* Table A, cl. 72), or by the operation of a clause for retirement by rotation, or again on a resolution by the company in general meeting to remove a director, and one of those provisions takes effect *vis-à-vis* A? As a result of the express terms of the agreement A is entitled to remain a director so long as he retains the shares; under the articles, on the other hand, he has vacated his office. Can he rely on the agreement and sue the company for damages?

The answer appears to be no. In *Bluett* v. *Stutchbury's, Limited*, 24 T.L.R. 469, the directors were empowered by the articles of association to appoint a director at any time, but any director so appointed was to hold office only until the next general meeting of the company, when he would be eligible for re-election. By art. 86 the directors had power to appoint "any one of their number" to be a managing director for such period as they deemed fit and to revoke such appointment. The plaintiff was appointed a director and by an agreement made between him and the company he was appointed managing director for four years, one of the terms of the agreement being that if he became incapacitated from attending to his duties as managing director the company could give him notice to determine the appointment. He failed to secure re-election as a director at the next ordinary general meeting, and the company gave him notice to determine the appointment; he then brought the action against the company for damages for breach of the agreement. The Court of Appeal held that, as he had not been re-elected a director, he could not under the articles be a managing director, and consequently the agreement came to an end, and that the directors had no power to appoint a managing director to hold office for four years whether the company re-elected him a director or not. Cozens-Hardy, M.R., said that it was entirely outside the powers of the directors—who, after all, derived their powers solely from the articles—to enter into an agreement which would deprive the company of its right to consider whether a person so appointed was a fit and proper person and eligible for re-election as a director or removable under the articles from his director's office.

It will be observed that the plaintiff's action was against the company only and that it failed because the agreement on which he relied was held to be *ultra vires* the directors; *ultra vires* because the directors had only power to elect "one of their number" as managing director, and it was a condition of his keeping the appointment that he remained "one of their number" and because an appointment for a fixed term of years was inconsistent with the company's power to refuse to re-elect him a director and to remove him from that office. It does not appear to have been suggested that the plaintiff might have had a cause of action against the directors personally for breach of warranty of authority; and, presumably, if he had sought to make them liable he would have been met with a defence based on the well-known doctrine that persons contracting with a company are deemed to have notice of the contents of its articles, and therefore to know the limits of the directors' powers.

The decision, however, in *Bluett* v. *Stutchbury's, Limited*, cannot, it seems to me, be thought to establish any broad principle that in cases of conflict between the articles of a company and the terms of independent agreements of this nature the provisions of the articles must prevail. Each case will depend upon the true construction of the particular articles and upon the extent of the directors' powers to bind the company. This is well illustrated by the decision in *Nelson* v. *James Nelson & Sons Limited* [1914] 2 K.B. 770. There the company's articles provided that the board of directors might appoint one of their number to be managing director for such period as they deemed fit and might revoke the appointment. In 1904 the board appointed the plaintiff managing director, and in 1908 a written agreement was entered into between him and the company, acting by the directors, whereby the plaintiff was to hold the office so long as he should remain a director of the company and perform his duties efficiently. Subsequently, while he was still fulfilling the conditions of the agreement, the board, purporting to act under the powers given it by the articles, revoked the appointment, and the plaintiff sued the company for damages.

The company's defence, broadly speaking, was that which succeeded in *Bluett's Case*, viz., that the effect of the article was that the directors could not make an appointment without reserving to themselves the right also to revoke the appointment, and that if they purported to make an appointment for a period of years without reserving to themselves the power of revocation, they were acting *ultra vires;* or, in other words, that in any agreement for the appointment of a managing director into which the directors entered, a clause must be implied giving them the right to revoke the appointment.

The Court of Appeal, however, had no hesitation in deciding in the plaintiff's favour. Lord Reading said that the directors had, under the relevant article, power to appoint a managing director for a term of years, and the words "may revoke such appointment" only gave the directors power to take away that which they had given provided they had not bound themselves to give it for any length of time. The directors had the power to appoint and the power to revoke the appointment, but the article did not mean that they had the power to revoke at will, notwithstanding any agreement into which they might have entered for the appointment of a managing director for a term of years. The article did not make it a condition of any appointment which the directors might make that there should be reserved to them a power of revocation. As Kennedy, L.J., put it, the directors "are not to break any contract which the company have empowered them to make and which the company have divested themselves of the power of making or revoking."

It will be noted that by the express terms of the agreement the office of managing director was to be held by the plaintiff only so long as he remained a director of the company; and, on the authority of *Bluett's Case*, it seems clear that had he ceased to be a director for any of the causes specified in the articles he could not have claimed to retain his office of managing director for the full term of that appointment.

In this connection it is interesting to note that the articles of the company providing for the retirement of directors at the ordinary general meeting and for the removal of a director by an extraordinary resolution of the company expressly excepted a managing director "holding that office for an unexpired term" from their operation.

The relevant clause of Table A (cl. 68) is as follows :—

"The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration . . . as they may think fit, and a director so appointed shall not while holding that office be subject to retirement by rotation or taken into account in determining the rotation or retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director or if the company in general meeting shall resolve that his tenure of the office of managing director or manager be determined."

It is clear that with an article in that form the directors could only appoint a managing director subject to the right of the company in general meeting to resolve at any time that his tenure of the office is to be determined, and subject to his vacating the office if he ceases to be a director; they cannot give him an absolute right to hold the office for a fixed period of years. It is *ultra vires* for directors to enter into such an agreement if its provisions are inconsistent with the powers given to the company by its articles; and consequently the other party to the agreement cannot hold the company liable. *Nelson's Case* shows, however, that the articles will be closely scrutinised in order to determine the respective powers of the directors and of the company in this connection. It may be that the conclusion of the whole matter has not been reached, though similar questions are less likely to arise for decision since modern forms (*cf.* "Palmer's Company Precedents," 14th ed., Vol. I, pp. 685-6) make the relevant articles expressly subject to the terms of the existing contract.

A Conveyancer's Diary.

Covenant to Indemnify Owner of Surface for Damage done by Working of Reserved Mines—Right of New Owner in respect of past Damage.

In another column there is published a letter from Mr. Emmet, in which he comments upon a recent case, *Snowdon* v. *Ecclesiastical Commissioners*, a short report of which appears at 78 Sol. J. 820, and now reported [1934] W.N. 214.

The facts were that the plaintiff was the owner of a farm which formed part of an estate conveyed many years ago by the Dean and Chapter of Durham to Sir W. Eden reserving the mines and minerals, in which conveyance they covenanted to indemnify him, his heirs and assigns, against any damage caused to the surface or the buildings thereon by reason of the working of the mines and minerals. The mines and minerals subsequently passed to the defendants. A lease was granted by them to lessees, who worked the mines and minerals and thereby caused damage to the farm and farm buildings. The plaintiff was for some time tenant of the firm, and in 1921 acquired the freehold.

In the action the plaintiff claimed damages for the injury caused by the workings. It was admitted by the defendants that they were liable to make good damage caused after the plaintiff became the owner, but the plaintiff claimed that they were also liable to him for the whole period, he being an assign within the meaning of the covenant entered into with his predecessor in title.

It seems to have been contended that the plaintiff was entitled to recover for damage done before he became the owner by virtue of s. 6 (1) of the C.A., 1881 (now s. 62 (1) of the L.P.A., 1925). That is the well-known enactment by which general words are implied in a conveyance. It is difficult to see (and Mr. Emmet agrees) how the right to damages for past injury could have passed by implication to the plaintiff under that section. It seems also that some stress was laid by the plaintiff on the fact that he was formerly the tenant, presumably at the time that damage was being done to the surface and buildings thereon.

Luxmoore, J., in his judgment, said that the fact that the plaintiff was formerly a tenant of the property was wholly immaterial. The damages which occurred before he became owner were not recoverable by him without express assignment, which had not been made. There was, his lordship considered, no difference in principle between that case and that of a reversion subject to a lease. In that connection the learned judge referred to *Weld* v. *Porter* [1916] 2 K.B. 91, per Swinfen Eady L.J., at pp. 101, 102. His lordship also held that the case did not fall within s. 6 (1) of the C.A., 1881.

In his letter, Mr. Emmet points out that s. 6 of the C.A. is now replaced by s. 62 of the L.P.A., 1925, and he suggests that whilst that section may have no application, s. 63 might have a bearing on the matter and have the effect of passing the benefit of the indemnity in respect of past damage to the plaintiff.

Section 63 reads as follows :—

"(1) Every conveyance is effectual to pass all the estate, right, title, interest, claim and demand which the conveying parties respectively have, in, to or on the property conveyed, or expressed or intended so to be, or which they respectively have power to convey in, to or on the same.

"(2) This section applies only if and as far as a contrary intention is not expressed in the conveyance, and has effect subject to the terms of the conveyance and to the provisions therein contained.

"(3) This section applies to conveyances made after the thirty-first day of December 1881."

That, of course, is what is generally called the "all the estate clause."

It will be observed that what is passed by implication (in the absence of a contrary intention) is the "right, title, interest, claim, and demand which the conveying parties have *in, to or on the property conveyed.*"

With great respect to Mr. Emmet I do not see how a claim for damages founded upon injury already done can be said to be a right, title, interest, claim or demand "in, to or on the property." No doubt it is a claim which arose in relation to the property, but is not a claim to any interest, etc., in, to or on it. Section 62 only applies, I think, to the *title* of the grantors of any right or interest in it or on it, and not to an independent right to damages caused to it. Suppose that at the date of contract and of conveyance a vendor had a good right of action for damages for trespass, it could hardly be suggested that such a right passed to a purchaser by virtue of s. 63. It seems to me therefore that the section could not have availed the plaintiff in *Snowdon* v. *Ecclesiastical Commissioners*, which was I venture to think correctly decided.

Assent to Devise of Leaseholds where Covenant not to Assign without Consent of Lessor.

A question which has not yet been decided and about which there seems to be a difference of opinion amongst conveyancers is whether an assent by executors to the vesting of leaseholds in a legatee can be made without the consent of the lessor where there is a covenant not to assign without such consent.

In the "Encyclopædia of Forms and Precedents," 1933 sup., p. 230, there is a note to the effect that since an assent gives effect to the devise, it is not an assignment within a covenant not to assign, and the consent

of the lessor is not required. In support of that the learned editors cite *Crusoe, d. : Blencowe* v. *Rugby* (1771), 2 W. Bl. 766. That was a case where a lessee who had covenanted not to " assign transfer or set over or otherwise do or put away the lease or premises " granted an underlease, and it was held that the underlease was not a breach of the covenant. There is no mention of a devise in the judgment, but counsel in the course of argument said that a devise would not be a breach, and as authority for that referred to *Fox* v. *Swan* (1655), Style 482. I do not think that *Crusoe, d. : Blencowe* v. *Rugby* supports the note in the " Encyclopædia." In *Fox* v. *Swan*, however, it was held that a devise was not a breach, because it was said " a devise is not an assignment."

In *Goodbehere* v. *Bevan* (1815), 3 M. & S. 353, it appears to have been assumed that a devise would not be a breach but that was a case of bankruptcy of the lessee, and an assignment by operation of the bankruptcy law, and is not therefore directly in point.

On the other hand there is some authority for saying that a devise would be a breach of such a covenant : see *Berry* v. *Taunton* (1594), Cro. Eliz. 331 ; *Damper* v. *Syms*, *ibid.*, 815.

It appears therefore that it has not been definitely settled that under the law as it was before 1926, a devise would not be a breach of a covenant not to assign, but I think there is no doubt that it has generally been accepted that it would not, and that view, I think, is correct.

Now the question is a different one. Whilst *Fox* v. *Swan* (the only really direct authority in favour of the view expressed) was decided on the ground that " a devise is not an assignment " it cannot be gainsaid that an assent is an assignment. It is also an assignment by parties *inter vivos*, and not (as in the case of bankruptcy) by operation of the law. It may well be therefore that the consent of the lessor, in such a case, would be necessary. At any rate it would be safer to obtain it.

I must say, however, that I think that in all probability, when the point comes to be decided, it will be held that the executors need not obtain a licence from the landlord before assenting, because, although an assent is undoubtedly an assignment, it is merely machinery for carrying into effect the devise, and not an assignment within the meaning of the covenant. Certainly if the lease were before 1926, such an assignment could not have been in the contemplation of the parties. Until the question has been decided, however, it is advisable to obtain the lessor's consent.

Landlord and Tenant Notebook.

Public Rights of Way : Evidence of Dedication by Landlord.

I WONDER how many landlords have availed themselves of the privilege conferred by sub-s. (5) of s. 1 of the Rights of Way Act, 1932. The earlier sub-sections of that section enact that dedication may be proved by twenty years' uninterrupted enjoyment unless there is " sufficient " evidence that there was no intention to dedicate or *no possession* admitting of dedication ; that, subject to the first of these two conditions only, forty years' enjoyment is conclusive ; that landowners may provide evidence negativing intention by putting up notices and advising local authorities, and by depositing maps with local authorities. Sub-section (5) runs : " In the case of land in the possession of a tenant for a term of years or from year to year let on lease, any person for the time being entitled in reversion to the land shall, notwithstanding the existence of any such tenancy, have the right to place and maintain such notice as aforesaid, but so that no injury is done thereby to the business or occupation of the tenancy."

A superficial examination of the law relating to highways would lead one to suppose that this enactment was otiose, the rule being that no tenant can create a right of way ; but a moderately searching survey of certain authorities makes one appreciate the true value of the new provision. For some decisions suggest that the courts have not exercised their accustomed thoroughness when referring to the position of landlords in these cases, the chief cause of complaint being a failure to distinguish between knowledge and acquiescence or consent (a state and an attitude of mind) and between acquiescence and consent (two attitudes of mind). Whether those alleging the existence of a right of way have to prove possession if they can show user, or whether proof of user puts the onus of establishing tenancies on the other party, is not easy to say.

The authorities in question begin with *Rugby Charity Trustees* v. *Merryweather*, decided in 1790, but reported only in a note to *Daniel* v. *North* (1809), 11 Ea. 372. The defendant was a trustee of the Foundling Hospital, and the dispute, as far as relevant, concerned the status of Lamb's Conduit-street, then a blind alley. In 1788 the plaintiffs had erected a bar across the open end, which the defendant had removed. The plaintiffs tried to meet the evidence of fifty years' public user by explaining that the property had been leased by them, the lease not expiring till 1780, since when they had been negotiating with the defendant with a view to giving him a right of way. This left a gap of eight years, and Lord Kenyon directed the jury that, if the matter concerned the parties only, the plaintiffs would not be prejudiced by what had happened since 1780 ; but having since then permitted the public at large to use the way, so it was too late to assert their right ; eight years was enough to raise a presumption of dedication, six having been held sufficient.

The above proceeds on the ground that user by the public plus knowledge on the part of the landowner amounts to *primâ facie* evidence of dedication ; but it seems to have been common ground that the premises were let part of the time and vacant since. In *R.* v. *Barr* (1814), 4 Camp. 161, when it appeared that the public had used a short cut across land let several times, with intervals between the tenancies, and that one tenant had complained to his landlord that his holding was thereby damaged, Lord Ellenborough said : " After a long lapse of time, and a frequent change of tenants, from the notorious and uninterrupted use of a way by the public, I should presume that the landlord *had notice* of the way being used, and that it was so used with his *concurrence*." Which suggests the possibility of dedication even while premises are held on lease.

But nothing was said of any presumption in *Wood* v. *Veal* (1822), 5 B. & Ald. 454, which emphasises the strong position landlords can occupy. The plaintiff had put up a fence across a way used by the public for as long as most people could remember, but had done so very soon after the expiration of a ninety-nine year lease. It was held, on a motion for a new trial, that consent must be proved affirmatively. It is hardly possible to reconcile this with *R.* v. *Barr*.

Then *Davies* v. *Stephens* (1836), 7 C. & P. 570, tends at first sight to support the notion that knowledge presumes consent. The subject-matter was a road from a country road to the sea ; user was proved on the part of fishermen, bathers, and gatherers of seaweed ; it was also shown that tenants sometimes locked gates. In his judgment Denman, C.J., said : " All the acts of user seem to have taken place during the occupation of tenants, and their submitting to them cannot bind the owner of the land without proof of his also being *aware* of it, but still, if you think that such acts of user went on for a great length of time, you may presume that the owner had been made aware . . .' This certainly reads as implying that knowledge was tantamount to consent.

Next, in *R.* v. *Petrie* (1855), 24 L.J., Q.B. 167, in which it appeared that land settled in 1822 had been let on building lease in 1823 and the disputed way used from 1829–1835, it was said that user raised a presumption of dedication, because those who used could not always show the history of the matter.

In *Attorney-General* v. *Biphosphated Guano Co.* (1878), 11 Ch.D. 327, C.A., the court substantially applied *Wood* v. *Veal, supra.* The information complained of the stopping up of a way by undertenants, the way having been created, it was alleged, by the grantees of a long term. The Attorney-General asked for an injunction limited to the term, but, whether this could or could not issue, the case was actually decided, in the defendants' favour, on the ground that they had had no notice of the agreement creating the way.

Powers v. *Bathurst* (1880), 49 L.J., Ch. 294, a copyhold case, was another decision in which it was held that user shifts the burden, the denying party having to prove that dedication was not possible.

Coming to the present century, some support for the opposite view is to be found in *Corsellis* v. *London County Council* [1907] 1 Ch. 704. In this the assignee of a building tenant obtained an injunction in respect of a strip of land paved by the defendants in 1883 at the instigation of a builder employed by the original grantee. The council could offer no evidence of any consent by the freeholder (who had since died), but it was, of course, apparent that the land had been on lease during the whole of the period of user.

Lastly, *Thornhill* v. *Weeks* (1914), 78 J.P. 154, merits attention, for it purports to follow *R.* v. *Barr* and *R.* v. *Petrie, supra,* as regards the law applied, though on the facts Astbury, J., held that there was insufficient evidence of user.

So, on the whole, a notice-board may be well worth the money.

Our County Court Letter.

RECTIFICATION OF LEASE.

In a recent case at Nottingham County Court (*Quinn* v. *Stubbings*) the claim was for rectification of a lease, and for £41 17s. 3d. as arrears of rent; and the counter-claim was for a similar sum, being the amount of rates paid by the tenant. The plaintiff's case was that his daughter had prepared a lease, which provided (by her mistake) that "the lessor shall pay the rates," whereas it had been agreed that the lessee (the defendant) should pay the rates. Several witnesses gave corroborative evidence, but the defendant contended that (1) having himself read the lease before signing it, he presumed that the plaintiff also knew its contents; (2) as the lease had been prepared by one side only, rectification should not be granted, and the plaintiff should bear the consequences of his mistake. His Honour Judge Hildyard, K.C., observed that the defendant was wrong in supposing that the verbal agreement (prior to the execution of the lease) could be ignored. Judgment was therefore given for the plaintiff (on the claim and counter-claim) but without costs.

THE DEVELOPMENT OF SEA FISHERIES.

In the recent case of *Harvey* v. *Crampin Steam Fishing Co. Ltd.*, at Grimsby County Court, the claim was for damages for breach of a contract to employ the plaintiff as skipper for at least a year, provided the ship's earnings were at least £3,300 per quarter, the plaintiff to give the benefit of all his knowledge. The plaintiff's case was that on the 10th March, 1933, he sailed from Grimsby as the skipper of the s.t. "Lord Birkenhead," but the catch only realised £320, and he was superseded without having the opportunity of showing better results. The defence was that (*a*) the plaintiff had claimed to have special knowledge of the Greenland and Labrador fishing grounds (especially a bank off Cape Farewell), but the latter was non-existent, and the loss on the plaintiff's trip was £700—the gross earnings for the quarter being only £2,109; (*b*) another skipper had tried to find the bank (as marked by the plaintiff on the chart) but the echometer had registered 360 fathoms, and the handline 600 fathoms, without result, and it was impossible to fish at more than 500 fathoms. His Honour Judge Langman held that there was no evidence that the plaintiff had either failed to fish on good ground, or had lost his position by bad seamanship, or had rejected useful information from another of the defendants' vessels. The plaintiff, however, had not given the benefit of all his knowledge, but had misled the defendants intentionally or recklessly, and had caused them to waste time and money looking for the alleged bank. The defendants were therefore entitled to terminate the contract, and, as there was no wrongful dismissal, judgment was given in their favour, with costs.

ASSIGNABILITY OF BOXERS' CONTRACTS.

In a recent case at Stoke County Court (*In re McNiff: Evans* v. *The Trustee in Bankruptcy*) the plaintiff applied as mortgagee for an order for the sale of a boxing contract. The evidence was that (1) the bankrupt (a promoter of boxing contests) had entered into a contract with Tut Whalley (a boxer) and the contract had been deposited with the plaintiff as security for a loan of £40 and interest at 10 per cent.; (2) no interest had been paid, and (as the promoter became bankrupt in August, 1933) the trustee had consented to the proposed sale, as any surplus purchase money would be payable to himself, on behalf of the mortgagor; (4) the purchaser (the assignee of the contract) would then be entitled (as manager) to commission on the proceeds of the fights of the boxers. His Honour Judge Ruegg, K.C., made an order as asked.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* The Solicitors' Journal.]

Undercutting.

Sir,—We are in agreement with the excellent letter of Mr. Harold Bevir in your issue of the 10th inst.

The advertisements by building societies carrying out conveyancing work through their solicitors at cut fees are not the only bodies doing this. Local and county authorities do likewise, in fact their fees in many instances for carrying out transfers or conveyances are considerably less.

This trafficing in conveyancing work is, we understand, looked upon by the Law Society as unprofessional conduct, and the warning notice suggested by Mr. Bevir should meet the case.

A. E. Hamlin, Brown & Co.

13th November.

Snowdon v. *Ecclesiastical Commissioners.*

Sir,—I am sending you a report of the above case. I thought it was just the sort of case that you would like to comment on in your "Conveyancer's Diary" in The Solicitors' Journal. In the first place, s. 6 of the 1881 Conveyancing Act is repealed and is now represented by s. 62 of the Law of Property Act, 1925. There can be no doubt, of course, that this sub-section could not apply to the case, but there is, as I think you will agree, another important section which might have a bearing on the matter, namely, s. 63 of the L.P.A. The report does not show whether this section was brought to the attention of the judge. If it was, it would have been more satisfactory to have mentioned in the report that the judge considered that this section, 63, had not the effect of passing the benefit to the purchaser. Certainly, a stronger argument could be based upon it than upon s. 6 of the Conveyancing Act as replaced by the new section of the L.P.A.

Sheffield. Lewis E. Emmet.

12th November.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

L.P.A., 1925, 1st Sched., Pt. IV, para. 1 (3) and s. 115.

Q. 3072. By his will M, who died in 1883, after appointing his wife, E.M., and his sons, J.M. and R.W.M., to be his executors and trustees, devised his freehold farm, R.D., to his trustees, upon trust to pay the income thereof to the said E.M. for her life, and on her decease, upon trust for his sons, the said R.W.M. and F.W.M., as tenants in common, subject to the payment thereout, when in possession, to testator's three daughters, E.M.M., L.M. and B.M., of £250 each and interest at 4 per cent. till paid. Testator's will was proved in 1883 by the said E.M. and J.M. alone, power being reserved of making a grant to R.W.M., who has, however, never proved. In 1888 by a mortgage deed made between the said R.W.M. and F.W.M. (borrowers) of the first part and E.M. of the second part and J.D. (mortgagee) of the third part, the farm was mortgaged to J.D. to secure repayment of £1,100 and interest. This mortgage was made subject to the three prior charges of £250 each created by the will, but the title deeds were handed over to the mortgagee. E.M., the tenant for life, died in 1914. Interest on the mortgage and charges has been duly paid up to the present time. The mortgage security, which has passed on to J.D.'s successors in title, is about to be paid off, and the property re-mortgaged. It was proposed to annex a receipt to the mortgage deed (s. 115, L.P.A., 1925) reciting the devolution of the mortgagee's title and the death of E.M., and stating that repayment has been made by R.W.M. and F.W.M. The three chargees will agree to their respective charges of £250 being postponed to the proposed new mortgage of £1,100. J.M. has been the acting trustee, and, although R.W.M. did not prove testator's will, or for many years take any active part in the administration of the estate, he did not disclaim the office of trustee, and he did, in fact, in 1930 execute a conveyance on sale of another farm (in exercise of the statutory trusts for sale, s. 35 and Pt. IV, 1st Sched., L.P.A., 1925) which was settled by the testator upon somewhat similar trusts as the above and subject to similar capital charges of £250 each, but no mortgage such as mentioned above. It is apprehended that, on the 1st January, 1926, the farm R.D. was settled land and the legal estate became vested, not free from the mortgage affecting the undivided shares which appears to be a legal mortgage, but free from the three charges of £250 each subsisting under the will, in J.M. and R.W.M., the trustees of the will, upon the statutory trusts, and that the charges became shifted to the proceeds of sale, and that the mortgagee became entitled to a term of 3,000 years: Pt. IV, 1 (3), and Pt. VII, 3, 1st Sched. and s. 35, L.P.A., 1925? We shall be glad of your valued opinion as to whether this is a correct interpretation of the position? With regard to the proposed receipt on the existing mortgage, should it be expressly provided that the receipt shall not operate as a transfer or otherwise: s. 115 (2) (a)? In connection with the proposed new mortgage, it is assumed that the trustees, J.M. and R.W.M., can, with the approval of owners of the undivided shares and of the three chargees, create a valid mortgage in favour of a new lender, the chargees agreeing to the postponement of their security and the owners of the shares mortgaging their beneficial interests? Can you refer us to a suitable precedent?

A. We are not in entire agreement with our subscribers as to the effect of the transitional provisions of the L.P.A., 1925, upon the position. The effect of the devise was to vest the legal estate in the trustees of the will, seeing that they had an active duty to perform, i.e., to pay the rents to the life-tenant: *Doe* v. *Homfray*, 6 Ad. & Ell. 206; *Doe* v. *Field*, 2 B. & Ad. 564. As E.M., the tenant for life, joined in the mortgage of 1888 it is assumed that she did so to pass her equitable interest, so that the mortgage was of the entire equitable interest (but subject to the charges in favour of the three daughters). Although the land is "settled" under the S.L.A., 1925, s. 1 (1) (v), it was not settled under the Acts of 1882 to 1890, and thus was not settled for the purposes of L.P.A., 1925, Sched. 1, Pt. IV, para. 1 (3). That paragraph therefore did not apply. Even had the land been settled within S.L.A., 1882 to 1890, that paragraph would not have applied, seeing that para. 1 (1) could (and in our opinion did) apply: *Re Ryder and Steadman's Contract* [1927] 2 Ch. 62; *Re Dawson's S.E.* [1928] 1 Ch. 421. As the *equitable fee simple* was in mortgage on 1st January, 1926, we express the opinion that on that day the mortgagee took a 3,000-year term from that date (his security being subject to the charges in favour of the three daughters), while the fee simple vested in the trustees of the will (J.M. and R.W.M.) upon the statutory trusts and that free from the charges in favour of the three daughters which attached to the proceeds of sale: L.P.A., 1925, Sched. I, Pt. IV, para. 1 (1), and Pt. VII. It is agreed that a receipt operating under L.P.A., 1925, s. 115, is suitable for the vacation of the mortgage, and though probably not necessary, it might be prudent to show on the face of the receipt that it is not intended to operate as a transfer. We agree that the proposed method of effecting the new mortgage will be satisfactory. We regret that we cannot find a precedent upon these lines.

Land Tax.

Q. 3073. A purchased the freehold reversions to a number of small dwelling-houses and the titles were registered under the Land Registration Act. Land tax is payable in respect of some of the houses, and B, the lessee of two of them, has redeemed the tax and obtained a charging certificate under s. 33 (*a*) of the Finance Act, 1896. B's solicitor has applied to the Land Registry to register this certificate as a registered charge against the freehold titles, and he has been informed that the application cannot be accepted unless the land certificates are lodged at the Registry for the purpose of registering the charging certificate as a registered charge. A has declined to lodge the certificates at the Registry, and B has now registered cautions against the titles. The position now appears to be that B has a charge upon the freehold reversions for the amount paid to redeem with interest thereon, such charge having priority over all other charges and incumbrances.

The leases provide for payment of the rent reserved clear of all deductions except in respect of property tax and contains covenants on the part of the lessee to pay the land tax and all other existing and future taxes, rates, assessments and outgoings of every description payable either by the landlord or tenant in respect of the premises. Can you suggest any means by which A can get the caution removed from the register other than by payment to B of the sum he has paid to redeem the tax with interest? The point seems to be an important one, as it would appear that a lessee who has covenanted to pay land tax can get rid of the liability by redeeming and

throwing the cost of so doing on the lessor. It may happen in some cases where a low ground rent is payable that the amount paid to redeem would exceed the actual value of the freehold reversion.

A. It is assumed the lessee is not holding at a rack rent. If he were he would not be entitled to redeem. As the questioner has no doubt discovered, there is apparently no direct authority on the subject. A cannot escape the charge of the capital sum bearing interest at an amount equivalent to the tax redeemed, but the opinion is given that during the lease the lessee is bound to discharge this interest on the ground that the Finance Act, 1896, could not have been intended to allow a lessee to escape from his obligations under the lease by altering the form of charge. Possibly A could arrange with B to contribute a sum equal to the present value of the tax payable under the lease, A providing the balance to redeem the charge.

Estate Duty on Death of Life Owner—Legacy Duty.

Q. 3074. By his Will, dated the 11th January, 1917, A bequeathed his one-fifth share in a trust fund of £5,850 to his trustees upon trust to pay the income thereof to his brother B during his life, and after his death his said one-fifth share was to fall into and form part of the residue of his estate which residue he gave and devised to C. A died on the 3rd March, 1917, and the Inland Revenue authorities claimed from C and were paid legacy duty in respect of the one-fifth share in the above-mentioned fund. The life tenant died in March, 1931, and the authorities now claim from C estate duty on the one-fifth share in the trust fund which passed to him on the death of the life tenant. Is C liable for this, and was he legally liable for the legacy duty which he paid in 1917 ?

A. Estate duty is payable on the death of every life owner except a husband or wife of the last person on whose death such duty was paid. The duty falls to be borne by C. If C was a brother or descendant of a brother of A, legacy duty was payable on the capital value of the one-fifth share (less estate duty expenses) on the death of A, and such duty could be charged on the one-fifth share, so that in effect B suffered the loss of income on it. If C was not so related, the proper course would have been for B to have paid legacy duty on the value of his life interest, and in that case C would have to pay duty on the full value on B's death.

Cottage—Whether still subject to the Rent Restrictions Acts.

Q. 3075. A purchased property in Surrey on which was a cottage and garage which were let. Subsequently the tenant of the cottage and garage gave up possession, and A then (in 1928) put his gardener into the cottage only, and free of rent. The cottage has now become vacant and A desires to know whether he can let the cottage (without the garage) and not bring the property under the Rent Restriction Act. The cottage and garage (which adjoins) are rated together at £25 a year, and obviously if the cottage were let separately, the rateable value would be reduced. No application has been made for registration of the cottage under s. 2 of the Act of 1933.

A. The query raises a very difficult point. It is assumed the cottage was in existence as such before 2nd April, 1919. If the cottage was *let* to the gardener rent free, then the Acts would not apply to that tenancy, but apply to the house (Act of 1920, s. 12 (7)). In that case even although the landlord had taken actual possession before letting to the gardener, s. 2 (2) of the 1933 Act would appear to apply if the apportioned rateable value of the cottage did not exceed £13 on 1st April, 1931, and unless the owner can now get a certificate from the county court which might, and we think should, be granted in the peculiar circumstances, the opinion is given that the cottage must, for the purpose of letting, still be treated as controlled. If, however, the cottage was not let but occupied as what is called a service occupation, there was no tenancy, and in that case if it can be proved that prior to the gardener's occupation the owner had entered into actual occupation either physically or by retaining the key the opinion is given though with some diffidence, that the cottage is de-controlled on the ground that it was not a house to which the Acts applied immediately before the passing of the 1933 Act (s. 1 (2) of that Act). It would, perhaps, be wise to apply to the Registrar of the County Court on the ground of doubt, for a certificate under s. 2 (2), if it is clear the apportioned rateable value would not amount to over £13. If it would be over that figure the owner is quite safe in treating it as de-controlled.

Letting of Cottage and Land—Meadow—Notice—Rent Restrictions Acts.

Q. 3076. A let a cottage with 3 acres of meadow land to B on a quarterly tenancy. The agreement (which is in writing) provided that the tenant should keep the hedges trimmed and not convert into tillage or break up grass land under a penalty. The agreement provided for three months' notice to end the tenancy.

(*a*) Is the tenancy within the meaning of the Agricultural Holdings Act ?

(*b*) Is the property excluded from the Rent Restrictions Act ?

(*c*) A notice was given on 15th March, 1933, to expire 25th March, 1934, or at the expiration of the year of the tenancy, which shall expire after the end of one year from service of the notice. No rent has been accepted since 25th March last. Is this notice in order ?

A. The opinion is given that as the meadow exceeds two acres the whole property is an agricultural holding (see s. 56 (2), Agricultural Holdings Act, 1923). It is considered that s. 33 only applies where the house let with the land is used for some business apart from agriculture, as in *In re Lancaster and Macnamara* [1918] 2 K.B. 472. The notice to quit is *primâ facie* good for the expiration of the current year of tenancy, which may or may not have been 25th March.

The answer to the question whether the tenant is protected by the Rent Restriction Acts (assuming the rateable value was such that the cottage, if there were no meadow, would be controlled) depends on whether the previous rateable value of the land, if the rateable value of the whole had been apportioned between the cottage and the land, would be one quarter or more of the rateable value of the whole. If it would have amounted to this, s. 12 (2), proviso (iii) of Rent &c. Restrictions Act, 1920, applies, and the property is not within the Acts.

Intestacy—Brothers and Sisters Taking and Their Issue in *infinitum*.

Q. 3077. Can the answer to question No. 3027 (published in your issue of the 1st September, at p. 614) be carried a little further ? It is clear that the issue of deceased brothers and sisters of the intestate are entitled to share in the residuary estate, but are issue of the issue of deceased brothers and sisters (i.e., great nephews and great nieces of the intestate) also entitled to share, where their parents (i.e., nephews and nieces of the intestate) are dead ?

A. Great nephews and great nieces whose parents are dead are certainly entitled to share. The property is to be held upon the statutory trusts for the brothers and sisters of the whole blood of the deceased (Ad. of E. Act, 1925, s. 46 (1) (*v*) (First)). It is to be noted that it is particularly stated that the issue are to take "*through all degrees*, according to their stocks, in equal shares if more than one, the share which their parent would have taken if living at the death of the intestate, and so that no issue shall take whose parent is living at the death of the intestate and so capable of taking" (Ad. of E. Act, 1925, s. 47 (3) and s. 47 (1). The issue of brothers and sisters of the whole blood represents them in *infinitum*. The issue of issue is but part of the descendants covered by the word issue.

To-day and Yesterday

LEGAL CALENDAR.

19 NOVEMBER.—On the 19th November, 1831, Lord Chief Justice Tenterden adjudicated upon a quarrel between the City of London and a Mr. Scales who had been elected alderman of the Ward of Portsoken. A petition had been presented that he was not fit to act, and the Court of Aldermen, having examined witnesses and heard counsel on his behalf, finally decided that he was not a competent person to support the dignity. The King's Bench refused to interfere and upheld the power thus to set aside an election.

20 NOVEMBER.—On the 20th November, 1645, Robert Atkyns was called to the Bar at Lincoln's Inn. There was law in his blood "he himself and his three immediate ancestors having been of the profession for near 200 years and in judicial places and (through the blessing of Almighty God) have prospered by it." The family records went back still further to a Richard Atkyns who lived at the beginning of the fifteenth century and "followed the profession of the law in Monmouthshire." Robert prospered no less than his ancestors, crowning a successful career by following his brother Edward in the office of Lord Chief Baron.

21 NOVEMBER.—Sir George Holroyd, formerly a justice of the King's Bench, died at his house at Hare Hatch in Berkshire, on the 21st November, 1831.

22 NOVEMBER.—On the 22nd November, 1852, Lord Justice Knight Bruce gave judgment in *Ex parte Danks*. After stating the trifling difference out of which the action had arisen, he said: "So and upon no greater matter—upon a matter that, if they had not good sense enough to settle it for themselves, some respectable neighbour would probably, upon application, have adjusted for them in an hour—began (as I collect) the career of cost and heat and hatred, of reproach, scandal and misery in which they are now engaged, of which neither this day nor this year nor perhaps another will, I fear, see the end, and which seems well to exemplify an old English saying, that the mother of mischief is no bigger than a midge's wing."

23 NOVEMBER.—Sir William Wilde died on the 23rd November, 1679, seven months after his dismissal from the Court of Common Pleas where he had been ten years a judge. His fall came about in connection with the "Popish Plot" trials, in which several of the accused were convicted on the evidence of a witness called Bedloe. Subsequently, Wilde learnt the true character of this false and malicious fellow and from the Bench described him as "a perjured man who ought to come no more into court, but go home and repent." This denunciation cost him his post.

24 NOVEMBER.—Lord Wyndham of Finglass, formerly Chancellor of Ireland, died in Wiltshire on the 24th November, 1745, six years after his resignation. For thirteen years he filled his post to the satisfaction of all classes, having previously presided as Chief Justice of the Common Pleas in Dublin. At the time of his first appointment, he was Recorder of Salisbury, and it is interesting to note that the journey from there to the Irish capital took him twenty-four days.

25 NOVEMBER.—On the 25th November, 1757, Alexander Wedderburn was called to the Bar at the Inner Temple. He had already practised for three years at the Scottish Bar, but in August, 1757, a scene in court had changed the whole course of his career. He had won a case against Alexander Lockhart, a leader of the Bar, who in annoyance made some depreciatory remark. Young Wedderburn retorted warmly, and was rebuked by the presiding judge, who ordered him to apologise. Instead of doing so he took off his gown, declaring that he would wear it no more. He left the court for ever and took the road to England and the Chancellorship.

THE WEEK'S PERSONALITY.

Mr. Justice Holroyd was one of those legal lights who first shone in a solicitor's office. Leaving Harrow suddenly at the age of fifteen, in consequence of severe financial losses suffered by his father, he was articled to Mr. Borthwick, a London attorney. However, at the end of three years he decided to try his fortune at the Bar and joined Gray's Inn, where his portrait now hangs in the Hall. There he was called in 1787, having prepared himself for a career of advocacy with a group of friends who met at one another's chambers and discussed legal points previously arranged, one of them taking the affirmation side, another supporting the contrary part, and a third summing up the arguments and deciding the question as judge. Success came to him quickly. His name figured in reported cases before he had been called a year, and although he made rapid progress, he refused to take silk. In the profession it was recognised that "he was absolutely born with a genius for law," and in 1816 he was appointed a Justice of the King's Bench. Here he sustained his high reputation, adding to a clarity which made the driest subjects interesting, a patience and good temper not universal among the judges of his time. Ill-health obliged him to retire in 1828, and he died three years later.

BLACK MAGIC AGAIN.

It is curious that just about the same time that the Court of Appeal was dismissing the plaintiff's appeal in the "black magic" libel action and Lord Justice Greer was expressing the opinion that both black magic and white were nonsense, Judge Earengey in the Clerkenwell County Court was being asked for a possession order partly on the ground that the tenant's wife, an old woman of seventy-five, had "laid a curse" on the baby of one neighbour and cursed the husband of another, since when he was said to have had several minor accidents. So the spirit which lay behind the witchcraft trials is still alive, if dormant, though the law washed its hands of it a couple of centuries ago. The beginning of the end was the trial of Richard Hathaway, in 1702, before Lord Chief Justice Holt, on a charge of falsely accusing Sarah Morduck of bewitching him. The woman had been acquitted of witchcraft at the Guildford Assizes and, thereupon, this prosecution had been ordered.

FEIGNED ENCHANTMENT.

Hathaway, who pretended that through Sarah's magical practices he had become blind and dumb, was checkmated by the energy of an able and enlightened divine, Dr. Martin, of Southwark. He purported to vomit pins, a common symptom with the bewitched, but a man whom Dr. Martin sent to visit him, extracted almost by force from his pocket several packets of pins which he used to scatter about by sleight of hand. He pretended to be able to live without food or drink—a sham exploded when some gentlemen hidden in the buttery and coal-hole saw the doctor's maid ply him with meat and drink, so that "he was very merry and danced about and took the tongs and played upon them, but after that he was mighty sick, and vomited sadly"—not pins however! All this was in evidence and, in spite of an able defence by Serjeant Jenner, the jury without retiring found the prisoner guilty, Holt, C.J., having asked them in his summing up whether there was any evidence that it was "in the power of all the witches in the world or all the devils in Hell to fast beyond the usual time that nature will allow." The prisoner was sentenced to be fined, flogged, pilloried and imprisoned with hard labour.

Obituary.

SIR CHARLES SPENCER.

Sir Charles Gordon Spencer, late Judge of the High Court of Madras, died at Oxford on Saturday, 17th November, at the age of sixty-five. He was educated at Marlborough and Keble College, Oxford, and went out to Madras, where in 1907 he was made a District and Sessions Judge. He became a High Court Judge in 1914, and on three occasions he acted as Chief Justice. He was called to the Bar by Lincoln's Inn in 1919, and received the honour of Knighthood in 1925. He retired in 1927.

MR. W. L. AINSLIE.

Mr. William Langstaff Ainslie, solicitor, partner in the firm of Messrs. Dawson & Co., of New-square, Lincoln's Inn, died in London on Wednesday, 21st November, at the age of seventy-five. Mr. Ainslie was admitted a solicitor in 1885.

MR. J. W. B. ALLEN.

Mr. John William Bird Allen, solicitor, of Coventry, died on Wednesday, 14th November, at the age of sixty-six. Mr. Allen, who was admitted a solicitor in 1889, practised at Nottingham until 1916, when he entered into partnership with Mr. R. P. Hollick at Coventry. The partnership was dissolved in 1925, and Mr. Allen had since practised at Coventry on his own account.

MR. A. J. ISARD.

Mr. Arthur James Isard, J.P., solicitor, of Tonbridge, died on Tuesday, 20th November, at the age of seventy-five. Mr. Isard was admitted a solicitor in 1885.

MR. E. P. LEWIS.

Mr. Edward Pugh Lewis, retired solicitor, of Shrewsbury, died on Sunday, 18th November. He served his articles at Newtown and later with Messrs. G. H. Morgan & Son, of Shrewsbury, and was admitted a solicitor in 1900.

MR. S. MATTHEWS.

Mr. Sydney Matthews, solicitor, of Swaffham, Norfolk, died at his home at Sporle on Monday, 12th November, at the age of seventy. Mr. Matthews served his articles with Messrs. Worship & Rising, of Yarmouth, and was admitted a solicitor in 1890. He was appointed Clerk to the Guardians and Rural District Council of Swaffham in 1895, and held the offices until 1921, when he resigned.

MR. J. MAUDE.

Mr. John Maude, retired solicitor, formerly senior partner in the firm of Messrs. Maude & Tunnicliffe, of Arundel-street, Strand, died at Oberhofen, Switzerland, on Saturday, 17th November, at the age of eighty-four. Mr. Maude was educated at Eton and Lincoln College, Oxford, and obtained his Cricket Blue in 1873. He served his articles with Messrs. Rickards & Walker (now Messrs. Maude & Tunnicliffe), of Lincoln's Inn-fields, and became a partner in 1877.

MR. T. H. MUNDELL.

Mr. Thomas Hodgson Mundell, solicitor, of Croydon, died on Thursday, 15th November, at the age of eighty-four. Mr. Mundell was admitted a solicitor in 1885.

MR. A. NORMAN.

Mr. Arthur Norman, retired solicitor, of Little College Street, Westminster, died at Battersea Park, on Sunday, 18th November, in his seventy-first year. Mr. Norman was admitted a solicitor in 1888.

MR. W. SCHOLEFIELD.

Mr. William Scholefield, retired solicitor, of Dewsbury, died at Harrogate, on Sunday, 11th November, at the age of eighty-four. He was admitted a solicitor in 1875, and joined his father in the firm of Messrs. Scholefield & Son, of Dewsbury. He retired several years ago.

Reviews.

Gibson's Statute Law. Eighth Edition. 1934. By ARTHUR WELDON and H. GIBSON RIVINGTON, M.A., Oxon. Royal 8vo. pp. lxiv and (with Index) 808. London: "The Law Notes" Publishing Offices. £2 net.

It is something of an achievement to provide students and busy practitioners with a compendious selection of statutes, conveniently arranged in seven hundred odd pages, with brief but apt annotations. With the experience of seven successful previous editions behind them, the editors of this work appear to have confronted with discrimination the problem of sifting another eight years' legislative output with a view to including only those statutes most useful to the reader. If, in the process, they have eschewed the Road Traffic Act, 1930, and retained, for example, the Rights of Way Act, 1932, doubtless the learned editors have good reasons for what perforce must be an arbitrary selection.

One criticism of a minor character suggests itself. The cases cited in the notes are shorn of their references, which must be discovered in the table of cases. Does this economy of space, at the expense of some convenience, result in more than a saving of a few pages? This is a small blemish in a compilation which must serve a most useful function for all those who have not the time or the opportunity to consult more encyclopædic works. Here they have at hand not only such bulky and important statutes as the Birkenhead Acts, most carefully annotated, but subjects ranging from such obvious old friends as the Sale of Goods Act to the Business Names Act, 1916, and the Ready Money Football Betting Act, 1920. Among newcomers the Landlord and Tenant Act, 1927, and the Moneylenders Act, 1927, are valuable additions, while a considerable number of cases have been added, especially to the Property Acts.

Salmond on the Law of Torts. Eighth Edition. 1934. By W. T. S. STALLYBRASS, D.C.L., Fellow and Vice-Principal, Brasenose College, Oxford. Demy 8vo. pp. lx and (with Index) 712. London: Sweet & Maxwell, Ltd. 30s. net.

The eighth edition of "Salmond" is undoubtedly a better book than the seventh. The transitional stage has been passed. Those who seek the views of Sir John Salmond himself can still find them in the sixth edition, published in 1924. His views were always respected, if not always accepted, and academically they will continue to be of the greatest interest. But the book has in a short life become a standard work on torts, not merely for students, but also for practitioners and judges, as is illustrated by the number of cases referred to in this edition in which passages from the book have been quoted with judicial approval. In these circumstances the need was clearly for a book setting out the law as it is applied in the courts to-day. This the learned editor has given us. He makes no attempt to disguise the fact that he has substituted much of his own writing for Sir John Salmond's, but has wisely abandoned the Excursus system which was a serious blemish in the seventh edition, and which, together with a number of lengthy footnotes setting out the editor's differences of opinion from those of Sir John Salmond, made for confusion and annoyance. One is now frequently referred to the sixth edition, but without undue interruption of the train of thought. The book has also been re-arranged, to its improvement.

There have been a number of important decisions since 1928, and certain of Sir John's views have become impossible to put forward, save in academic discussion. This is particularly so in the law relating to the action of negligence. *Donoghue* v. *Stevenson* [1932] A.C. 562, and *Lochgelly Iron and Coal Company* v. *M'Mullen* [1934] A.C.1, to name only two, are cases which have wrought great changes in the law of torts. The one has greatly extended the ambit of one's duty to use care, the other has finally rendered obsolete

Sir John's view that wrongful intent or negligence is in almost every case essential to found a cause of action in tort.

No time has been wasted in the production of the book. All relevant English cases reported up to the end of June, 1934, are noticed. Of these, two have since been affirmed in the Court of Appeal. The recommendations of the Law Revision Committee in certain matters are set out, and indeed the only omission of importance is that of the Law Reform (Miscellaneous Provisions) Act, 1934, which was passed too recently for inclusion. The textual accuracy is of a very high standard, and the book, though it has grown by some twenty pages, is still just as readable and interesting as ever. One impression is worth recording, and that is the number of the dicta of the late Lord Justice Scrutton which are included, and rightly so, for none are more helpful to clearer understanding of the law and the prevention of confusion in so many and various problems. The debt we owe to that great lawyer, as to Sir John Salmond, will become ever more apparent as their presence becomes but a memory.

Books Received.

Roscoe's Digest of the Law of Evidence on the Trial of Civil Actions. Twentieth Edition. 1934. By James S. Henderson, of the Middle Temple, Barrister-at-Law. In two volumes. Demy 8vo. pp. clxxii and (with Index) 1520. London: Stevens & Sons, Ltd.; Sweet & Maxwell, Ltd. £3 net.

Herbert Fry's Royal Guide to London and other Charities. 1934. Crown 8vo. pp. lii and (with Appendix) 327. London: The Churchman Publishing Co., Ltd. 2s. net.

Tax Cases. Vol. XVIII. Part VII. 1934. London: H.M. Stationery Office. 1s. net.

Bankruptcy Procedure. By W. D. Russell, A.C.A. 1934. Demy 8vo. pp. ix and (with Index) 201. London: Gee & Co. (Publishers) Ltd. 8s. 6d. net.

The Parliament-House Book for 1934-35. One hundred and tenth Publication. 1934. Crown 8vo. Edinburgh: W. Green & Son, Ltd. 21s. net.

Truth Christmas Number, 1934. London: Truth Publishing Co., Ltd. Price 1s. 6d.

[All books acknowledged or reviewed can be obtained through The Solicitors' Law Stationery Society, Limited London, Liverpool and Birmingham.]

Notes of Cases.

Court of Appeal.

Oceanic Steam Navigation Co. *v.* Evans.

Greer, Maugham and Roche, L.JJ.
12th, 15th and 16th October, 1934.

Insurance (Marine)—Wreck—Contract for Removal—Joint Insurance Against Risk—Total Failure to Remove—Removal by Harbour Commissioners—Cost—Whether covered by Policy.

Appeal from a decision of Branson, J.

In 1928 a steamer belonging to the company was wrecked within the jurisdiction of the Cork Harbour Commissioners who had statutory power to remove anything which might constitute an obstruction or danger to navigation. On the 11th July, 1929, a Danish firm contracted with the company to remove the wreck, undertaking to comply with all the requirements of the Commissioners and to indemnify the company "against any claims made by the Commissioners or any other parties by reason of anything done or omitted to be done" by them in relation to the removal. Subsequently the company and the salvage firm jointly took out a policy of insurance which provided that it was only to cover the firm's liability to the company under contract dated the 11th July, 1929, and to indemnify the company against any claims made by the Commissioners or any other parties by reason of anything done or omitted to be done by the firm in relation to the removal of the wreck. The firm was unable to carry out its contract, and in 1933 the Commissioners partly removed the wreck and required the company to pay the cost, besides that of buoying and lighting the remains. The company remained owners of the wreck. Branson, J., held that the policy did not cover the total abandonment of the work by the firm.

Greer, L.J., allowing the appeal, said that the broad risk was that the firm would not comply with the requirements of the Commissioners. An incidental risk was the obstruction of the public right of any vessel approaching the harbour, for the company could not have sheltered under the plea that the work was being done by independent contractors (see *The Snark* [1900] P. 105). The policy was intended to cover both branches of the risk. The broader risk was covered by the first part and the incidental risk by the second. The first part was just as much a promise to the company as to the firm.

Maugham and Roche, L.JJ., agreed.

Counsel: *Porter*, K.C., and *H. U. Willink*; *A. Miller*, K.C., and *Sir Robert Aske*, K.C.

Solicitors: *Hill, Dickinson & Co.*; *Thomas Cooper & Co.*

[Reported by Francis H. Cowper, Esq., Barrister-at-Law.]

Scott *v.* Commissioners of Inland Revenue.

Lord Hanworth, M.R., Romer and Maugham, L.JJ.
7th, 8th and 9th November, 1934.

Revenue—Family Settlement—Settlement of Contingent Reversionary Life Interest—Protective Trust—Accumulation—Death of Life Tenant—Passing of Property—Estate Duty—Finance Act, 1894 (57 & 58 Vict., c. 30), s. 1.

Appeal from a decision of Bennett, J.

The fifth Earl Cadogan, having, in 1889, made a re-settlement of the Cadogan estates, in 1893 purchased, for £2,000, the contingent reversionary life interest of his second son, and settled it upon a protective trust, the trustees being given a discretionary power to apply the income for the benefit of the sixth Earl or his wife or children and to accumulate the balance. In 1908, his eldest son died, and in 1910, that son's only son also died. In 1911, the second son became bankrupt. In 1915, on the death of his father, he became sixth Earl. He died in 1933, never having obtained his discharge, and his son, born in 1914, became seventh Earl. The balance accumulated under the protective trust now amounted to about £165,000. Bennett, J., held that this property passed to the seventh Earl, so as to fall within s. 1 of the Finance Act, 1894, and to be liable to estate duty.

Lord Hanworth, M.R., dismissing the appeal, referred to *Attorney-General* v. *Beech* [1899] A.C. 53, and the observations of Lord Halsbury, L.C., at p. 56, and Lord Davey, at p. 61. This decision did not govern the present case, but it showed that there might be circumstances in which no liability to estate duty arose, because there was no change of ownership on the death. The question here was whether the property passed to the seventh Earl on the death of the sixth Earl. Was the seventh Earl master of the property in the sense indicated by Lord Halsbury and Lord Davey before the sixth Earl died? When the fifth Earl bought his second son's expectant reversionary interest he did not hand it over *simpliciter* to the seventh Earl, but created a protective trust under which the sixth Earl might benefit. From this it seemed that the seventh Earl was not master before the sixth Earl died, but it had been argued that the circumstances made the seventh Earl the dominant owner, and *Adamson* v. *Attorney-General* [1933] A.C. 266, had been relied on. It had been said that the sixth Earl's death did not alter the effect of what had

already been done. However, the seventh Earl came into possession under the re-settlement of 1889, even though he took some portion of the accumulation from the trustees. In his father's life he was not in the dominant position occupied by the children in *Adamson* v. *Attorney-General*. The deed settling the life interest did not put him into control of all that would have passed to the sixth Earl. It gave him an interest, but only after the other trusts of the deed had been fulfilled. Neither *Attorney-General* v. *Beech* nor *Adamson* v. *Attorney-General* applied.

ROMER and MAUGHAM, L.JJ., agreed.

COUNSEL: *Latter*, K.C., *Morton*, K.C., and *Wilfrid Hunt*; *The Attorney-General* (Sir Thomas Inskip, K.C.) and *J. Stamp*.

SOLICITORS: *Lee & Pembertons*; *Solicitor of Inland Revenue*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Andrews *v.* Denaby and Cadeby Main Collieries Ltd.

Lord Hanworth, M.R., Slesser and Romer, L.JJ.
23rd and 24th October and 16th November, 1934.

MASTER AND SERVANT—WORKMEN'S COMPENSATION—INDUSTRIAL DISEASE—RECOVERY—GENERAL REFUSAL TO EMPLOY MEN WHO HAVE SUFFERED FROM NYSTAGMUS—WORKMEN'S COMPENSATION ACT, 1925 (15 & 16 Geo. 5, c. 84), s. 9 (4)—WORKMEN'S COMPENSATION ACT, 1931 (22 & 23 Geo. 5, c. 18), s. 1 (1).

Appeal from Doncaster County Court.

In 1926, a miner was certified as suffering from nystagmus A year later he returned to the coal face, where he worked till July, 1930. He then obtained another certificate that he was suffering from the same disease and was paid compensation. From January, 1931, till December, 1933, he was again at work without incapacity, but since then he had been unemployed. The company which had employed him, in common with the other colliery owners in the district, required colliers to sign a book stating whether they had ever suffered from nystagmus, and would not employ any man who had. The County Court judge awarded compensation as for partial incapacity, holding that the miner's inability to get work was due to the ban.

SLESSER, L.J., allowing the appeal, said that in *French* v. *Archibald Russell Ltd.*, 50 T.L.R. 451, the House of Lords had relied on the words "continuing effects of the injury" in s. 9 (4) (i) of the Workmen's Compensation Act, 1925 (amended by the Workmen's Compensation Act, 1931, s. 1 (1)). Lord Tomlin, at p. 454, had said that they referred to the physical condition of the workman resulting from the injury; inability to sign such a declaration was not a physical effect of the injury. The House of Lords did not, however, rely on s. 9 (4) (ii), which dealt with cases where "failure to obtain employment is a consequence wholly or mainly of the injury." Nevertheless, though to this extent the case was not a direct decision on the present point, it applied by necessary implication, and *Morton* v. *South Kirby, Featherstone and Hemsworth Collieries Ltd.*, 26 B.W.C.C. 180, could no longer be regarded as good law.

COUNSEL: *E. Dale and Linell*; *Neal*.

SOLICITORS: *Johnson, Weatherall, Sturt & Hardy*, agents for *Parker Rhodes, Cockburn & Co.*, of Rotherham; *Corbin, Greener & Cook*, agents for *Raley & Sons*, of Barnsley.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

WEST HAM CORONERSHIP.

Mr. G. E. Hilleary, the West Ham Coroner, has resigned his office as Coroner for the borough of West Ham, and the Town Council are considering the question of his successor. Mr. J. Milner Helme, barrister-at-law, who was appointed deputy coroner by Mr. Hilleary, will continue to act until a new coroner is appointed.

High Court—Chancery Division.

In re William Adler & Co. Limited.

Eve, J. 1st November, 1934.

WINDING UP—COSTS—TAXATION—VOLUNTARY LIQUIDATION—COMPULSORY ORDER—PARTY AND PARTY TAXATION—VOLUNTARY LIQUIDATOR'S COSTS—COSTS OF OPPOSITION TO COMPULSORY ORDER—SUMMONS.

This was a summons to review taxation.

A resolution was passed for the voluntary winding up of the company and on 23rd November, 1932, an order was made on petition for the compulsory winding up of the company. The voluntary liquidator appeared upon the hearing of the petition in opposition to it, and the usual order was made as to costs, including the costs of the company, to be taxed as between party and party. On the taxation the registrar disallowed certain items of costs incurred by the liquidator after the resolution for voluntary winding up, but before the presentation of the petition. The solicitor to the voluntary liquidator then brought in a further bill of costs, including items which were disallowed on the previous bill, but which the solicitor claimed to be allowed on a solicitor and client taxation. The Official Receiver raised objections to this bill and contended that the liquidator was only entitled to one bill of costs which must be taxed between party and party. The registrar disallowed the objections and this summons was taken out to appeal from his decision and to review the taxation. The case of *In re C. B. and M. (Tailors) Ltd.* [1932] 1 Ch. 17, was referred to.

EVE, J., in giving judgment, said that costs in that class of case fell under three heads: (1) costs incurred by the company before any resolution or petition for winding up which must be proved for, (2) costs of appearing on the petition which the liquidator was entitled to be paid, and (3) if between the dates of voluntary liquidation and the filing of a petition for compulsory winding up costs were incurred by the solicitor representing the company and the liquidator, the solicitor was entitled to be paid those costs so far as they were proper, because the commencement of the winding up was the date when the voluntary resolution was passed. The position of the voluntary liquidator entitled him to deliver a bill including items not allowable under a party and party taxation, but items which were costs properly incurred and ought to be paid out of the company's assets. The summons therefore must be dismissed with costs.

COUNSEL: *W. E. Behrens* (for *G. O. Slade*); *J. B. Lindon*.

SOLICITORS: *Stafford Clark & Co.*; *Lucien Fior*.

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

In re Smith: Trevor *v.* Goodhall.

Clauson, J. 16th November, 1934.

WILL — GIFT TO BISHOP — FOR POORER BENEFICES — SUFFRAGAN BISHOP — NO DIOCESE — NO GENERAL CHARITABLE INTENTION.

This was a summons taken out in an administration action and raised the question whether a gift to the Bishop of Stepney for the benefit of the poorer benefices of his "diocese" was payable to the Bishop of London for application in the area allotted to the Bishop of Stepney in East London as suffragan to the Bishop of London.

By her will dated 29th September, 1908, Miss Ann Maria Smith, who died in 1909, bequeathed a sum amounting to about £2,000 to the Bishops of London, Stepney and Southwark in equal shares to be applied by them for the increase of the endowments of one or more of the poorer benefices of their respective dioceses, the application of the same to be in the absolute discretion of the Bishops respectively and their receipts to be good discharges to the trustees. The Bishop of Stepney, being a suffragan in the diocese of London,

this summons was taken out by the defendant, one of the executors of the will, asking to what persons and on what trusts the moneys now in the hands of the defendants ought to be held.

CLAUSON, J., in giving judgment, said that there was no question as to the validity as to the gifts to the Bishops of London and Southwark, but as the Bishop of Stepney had no diocese in the strict sense of the word, it was said that the gift of one-third of the fund to him failed. He was acting as suffragan to the Bishop of London and occupied a quasi-episcopal position as regarded a particular area as to which there was no dispute. The testatrix had used inaccurate language, but it was plain that she intended to refer to the benefices in the area administered by the Bishop of Stepney as suffragan. The effect was that one-third of the fund was payable to the Bishop of London for application among benefices in his diocese excluding the Stepney area, one-third to the Bishop of Southwark, and the remaining third would be paid to the Bishop of London with the consent of the Bishop of Stepney for application among poorer benefices in the area assigned by commission to the Bishop of Stepney. The costs of all parties to be paid out of the fund.

COUNSEL: *Denys Buckley; N. C. Armitage; Wilfrid Hunt; G. E. Timins* and *A. Andrewes Uthwatt.*

SOLICITORS: *Bircham & Co.; Lee, Bolton & Lee; Hanbury, Whitting & Ingle; Nicholson, Freeland & Shepherd; Treasury Solicitor.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Knight *v.* World Barter and Trading Co., Limited.

Branson, J. 1st November, 1934.

COMPANY—DIRECTOR'S FEES—CHAIRMAN'S FEES—ARTICLES OF ASSOCIATION—TERMS OF REMUNERATION—PREMATURE CLAIM FOR DIRECTOR'S FEES.

In this action Mr. Holford Knight, K.C., M.P., claimed from the defendants, World Barter and Trading Co., Ltd., £166 13s. 4d. for fees as chairman and as a director of the defendant company. In May, 1933, the plaintiff met a Mr. Seligman, who was interested in the promotion of the defendant company. In June and July, 1933, the World Economic Conference was sitting in London. During the proceedings Mr. Seligman put forward a proposition for the views of the plaintiff with regard to the promotion of an international trading company based substantially on the principle of international barter. After further negotiations the defendant company was incorporated on the 22nd September, 1933, and the plaintiff and nine others were elected directors. On the 26th September, 1933, the plaintiff was elected chairman at a remuneration of £500 a year. Under the articles of association a director was to be paid £500 a year out of the net profits, and in addition a sum equivalent to 5 per cent. of the net profits was to be divided among the directors equally. Later, that article was amended to the effect that the directors' salaries were to be £5,000 a year, to be divided among them in such proportions as they should themselves determine, and in default of determination, equally. The plaintiff took a certain view with regard to the policy of the company and sent in his resignation in November, 1933. For the defence it was said that the directors had made no determination at all under the amended article and that there could be no default of determination until the end of the financial year, 23rd December.

BRANSON, J., dealing first with the claim for director's fees, said that under the article as originally formed before a director was entitled to any remuneration at all there had got to be some net profits, and the amount had to be certified, and that certificate was a condition precedent to the right of the directors to have any remuneration. He thought that that made it plain that the remuneration had to be paid at the end of the financial year. The amended article provided that the remuneration should be £5,000, divided among the directors, and he could not read the article as meaning anything different from what was said in *Moriarty* v. *Regent Garage & Engineering Co., Ltd.* [1921] 2 K.B. 766. There could be no default until the end of the financial year, and he therefore held that the plaintiff's claim for director's fees was premature and could not succeed. With regard to the claim for chairman's fees, the chairman held an office under the company which was to be remunerated under the articles, and the plaintiff succeeded on that claim. Judgment for the plaintiff for £71 4s. 8d. A stay of execution was granted.

COUNSEL: *Bernard B. Gillis*, for the plaintiff; *Philip J. Sykes*, for the defendant Company.

SOLICITORS: *Medlicott & Co.; R. G. Percival.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

H.M. Postmaster-General *v.* Birmingham Corporation.

Goddard, J. 16th November, 1934.

LOCAL GOVERNMENT—TOWN PLANNING—STREET WORKS—ALTERATION OF TELEGRAPH LINES—LIABILITY OF POSTMASTER-GENERAL—TELEGRAPH ACT, 1863 (26 & 27 Vict., c. 112), s. 15.

This special case, in which the Postmaster-General was the plaintiff and the defendants were the Birmingham Corporation, raised a question whether the Post Office or the Corporation of Birmingham must pay for the cost of certain alterations to telegraphic lines at Birmingham. The case arose out of the carrying out of certain town-planning schemes at Birmingham which necessitated the construction of a number of new streets and the widening of old streets and the alteration of levels. That required the alteration of telegraphic lines, and the dispute was as to the party on whom the liability for the cost of such alteration fell. The plaintiff, pending the determination of the question had, to avoid delay, carried out the work at a cost of £916 15s. 9d. Section 15 of the Telegraph Act, 1863, provides that "In case the body having the control of any street or public road at any time hereafter resolves to alter the line or level of any portion of such street or road under in upon over along or across which any work of the company constructed either before or after the passing of this Act is placed, the company shall from time to time be bound on receiving one month's notice of such intended alteration, and at their own expense, to remove such work and to replace the same in such position and manner in all respects as may be required by such body, or, in the event of difference between such body and the company, in such position and manner in all respects as may be determined . . . by two justices." It was agreed that the plaintiff occupied the position of the company for the purposes of the above section.

GODDARD, J., said that the case was a difficult one, but in his view it came within s. 15 of the Act of 1863, and s. 7 of the Telegraph Act, 1878, did not apply. The corporation had resolved to carry out works under their housing scheme, and they came within the words of s. 15. Judgment for the defendants, with costs.

COUNSEL: *The Attorney-General* (Sir Thomas Inskip, K.C.), and *Harold Murphy*, for the Postmaster-General; *Tyldesley Jones*, K.C., and *Trustram Eve*, for the corporation.

SOLICITORS: *Sir Raymond Woods; Sharpe, Pritchard & Co.*, agents for *F. H. C. Wiltshire*, Town Clerk, Birmingham.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Mr. Matthew Attwood, solicitor, of Derby, who died on the 5th August last, left the whole of his estate of the gross value of £67,490, with net personalty £60,650, to his wife absolutely. Provision is made in the will for gifts of £1,000 each to the Derbyshire Royal Infirmary and the Bishop of Derby's Fund for Church extension on the death of Mrs. Attwood. Mr. Attwood also expressed the wish that various payments should be made to his indoor and outdoor servants.

Court of Criminal Appeal.

Rex *v.* Holding.

Lord Hewart, C.J., Avory and Branson, JJ.
29th October, 1934.

Criminal Law—Conviction as Incorrigible Rogue—Examination of Circumstances before Sentence—Opportunity of Cross-examination and Addressing the Court—Assessment of Sentence—Vagrancy Act, 1824 (5 Geo. 4, c. 83), s. 10.

This was the appeal against sentence by the appellant, A. E. Holding, who was convicted at Highgate Petty Sessions as an incorrigible rogue and was committed for sentence to Middlesex Quarter Sessions. He was sentenced to twelve months' imprisonment with hard labour. Counsel on his behalf on the present appeal said that no enquiry was made by the Court of Quarter Sessions into the circumstances of the conviction at Petty Sessions; that the prisoner was given no opportunity of cross-examining the police officer called to give evidence for the Crown, or of addressing the court.

Lord Hewart, C.J., in giving the judgment of the court, said that it was the duty of the Court of Quarter Sessions first to examine into the circumstances of the case and then, after affording the prisoner an opportunity of cross-examination and of addressing the court, to consider what was the appropriate sentence. There had been nothing in the present case which could be called an examination into the circumstances of the case, and the sentence must be quashed.

Counsel: *R. E. Seaton* for the appellant; *J. F. Eastwood* for the Crown.

Solicitors: *Registrar of the Court of Criminal Appeal; Wontner and Sons.*

Rex *v.* Long.

This appeal by W. J. Long from a sentence of twelve months' imprisonment with hard labour passed on him at the Middlesex Quarter Sessions on a conviction as an incorrigible rogue raised the same point as in *Rex* v. *Holding*, *supra*.

Lord Hewart, C.J., giving the judgment of the court quashing the sentence, also pointed out that it was not to be regarded as a matter of course that, if a sentence of imprisonment was to be passed on an incorrigible rogue, it should be for the maximum term.

Counsel: The appellant appeared in person; *J. F. Eastwood* for the Crown.

Solicitors: *Wontner and Sons.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

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Rules and Orders.

The Audit Regulations, 1934, dated November 10, 1934, made by the Minister of Health under Part X of the Local Government Act, 1933 (23 & 24 Geo. 5, c. 51). [S.R. & O., 1934, No. 1188. Price 1d. net.]

Parliamentary News.

Progress of Bills.

House of Lords.

Betting and Lotteries Bill.
Royal Assent. [16th November.

Dindings Agreement (Approval) Bill.
Royal Assent. [16th November.

Expiring Laws Continuance Bill.
Royal Assent. [16th November.

Incitement to Disaffection Bill.
Royal Assent. [16th November.

Judiciary (Safeguarding) Bill.
Read First Time. [21st November.

Land Drainage Provisional Order Confirmation Bill.
Royal Assent. [16th November.

Poor Law Bill.
Royal Assent. [16th November.

Select Vestries Bill.
Read First Time. [20th November.

House of Commons.

Educational Endowments (Scotland) Bill.
Read First Time. [21st November.

Electricity Supply Bill.
Read First Time. [21st November.

Ministry of Health Provisional Order (Cumberland and Lancaster) Bill.
Read First Time. [21st November.
Ministry of Health Provisional Order (Gloucester and Warwick) Bill.
Read First Time. [21st November.
Ministry of Health Provisional Order (Holland and Kesteven) Bill.
Read First Time. [21st November.
Ministry of Health Provisional Order (Holland and Lindsey) Bill.
Read First Time. [21st November.
Ministry of Health Provisional Order (Leicester and Warwick) Bill.
Read First Time. [21st November.
Outlawries Bill.
Read First Time. [20th November.

Societies.

The Chartered Institute of Secretaries.

Mr. W. G. Hislop, President, took the chair at the forty-third Anniversary Dinner of the Institute, held at Guildhall, London, on the 21st November.

THE LORD MAYOR, in responding to the toast of the Corporation of London, proposed by Sir ENOCH HILL, said that he had once been a secretary himself. He congratulated the Institute on what was being done for its members and the community at large. Nothing lived which lived for itself alone. The Corporation, of which he had the honour to be the head for the time being, lived for the glory of the Empire.

LORD MACMILLAN, P.C., in proposing the toast of the Institute, said that he had presided over commissions and committees on subjects ranging from lunacy to income tax, and he had every reason to be grateful for the work of secretaries. The Institute had been founded in 1891, and granted its Royal Charter in 1902. They quite rightly maintained an exacting standard in their examinations. He had studied their literature, and he noticed that prominent in the requirements of a secretary was a knowledge of the law. Everyone was supposed to know the law, except the judges, who have to be told it by counsel. He was pleased to see that their Journal had reported, without unfavourable comment, a recent judgment of his.

THE PRESIDENT, in replying, referred to the increases in membership and in the number of registered students. It was the aim of the Institute to turn out men of high character and integrity who would worthily maintain the great financial and commercial traditions of this country. He also referred to the growth of the joint stock system, and said that it had been relatively free from abuse. The exceptions were thrown into sharp relief against a vast background of rectitude. Frequent agitations for a revision of the Companies Act were to be deprecated. He had never ceased to wonder at the foresight and judgment shown by the compilers of the old 1862 Act, which still formed the basis of the present Act; they builded better than they knew.

The toast of the guests was proposed by Mr. HOWARD FOULDS and acknowledged by Field-Marshal Viscount ALLENBY, G.C.B., and Sir WILLIAM CLARK, K.C.S.I.

Among others who were present were Lord Askwith, Lord Plender, Lord Rochester, Sir Harold Downer, Sir Gervais Rentoul, Sir Claud Schuster, Capt. J. F. C. Bennett, Messrs. W. E. Bennett, E. E. Bird, J. R. Bracewell, F. B. Brook, Albert Burton, K. E. Burton, Bernard Campion, J. D. Cassels, H. M. Cohen, H. A. Easton, R. W. Elder, H. E. Fass, Capt. Philip Frere, Messrs. E. Goddard, F. Greenwood, A. G. Hancock, R. Hyem, N. R. Jauralde, Harry Knox, R. H. Monier-Williams, A. A. Pitcairn, G. S. Potts, J. R. H. Roberts, A. W. Rogers, H. S. Syrett, J. Venn, A. M. Walker, F. J. Williams, and Mr. C. H. Isdell-Carpenter (Secretary of the Institute).

Inns of Court.

CALLS TO THE BAR.

Tuesday, 20th November, was Call Night at the Inns of Court. The following were called:—

LINCOLN'S INN.

Dhiren De, Univ. Coll., Lond., and Calcutta Univ., B.A.; I. A. Jackson, Pemb. Coll., Camb., M.A., M.B.; R. J. Bushell, Pemb. Coll., Camb.; Mom Chao Jajvalit Kshemsant; J. R. Blagden, Emm. Coll., Camb. B.A.; S. A. C. Keelan, Lond. Univ.; Cecilie Kathleen Bridgewater; Satyamangalam Krishnachetty Vaiyapuri, Oxf. Univ., B.A.; Avabai Dorabji Mehta; G. A. Russo, Pemb. Coll., Oxf., B.A.; Q. B. Hurst, Linc. Coll., Oxf., B.A.; Perungavur Bashyam, Madras Univ., B.A.; Rajindar Singh Randhawa, Punjab Univ., B.A.

INNER TEMPLE.

R. A. Crompton, Emm. Coll., Camb., B.A.; M. C. Marke, Jesus Coll., Oxf., and Durham Univ., B.A.; N. A. Y. Yorke-Lodge, Keble Coll., Oxf., M.A.; H. S. Tan, St. John's Coll., Oxf., B.A.; T. W. Davies, Ball. Coll., Oxf., M.A.; A. C. Happell, King's Coll., Camb., M.A.; A. Chandavimol, Gonv. and Caius Coll., Camb., B.A.; A. R. Downer, B.N.C., Oxf., B.A.; Mrs. B. A. Thomas, Newn. Coll., Camb., and Univ. of Lond., B.Sc.; C. S. Saran, Jesus Coll., Camb., B.A.; A. N. Buckmaster, Univ. Coll., Oxf.; Miss E. I. A. Obeyesékere, Univ. of Oxf., B.A.; R. F. Papa; W. R. B. Watson, Pemb. Coll., Camb., B.A.; H. M. Kinloch, B.N.C., Oxf., B.A.; J. H. Max Muller, Chr. Ch., Oxf., B.A.; L. J. Solley, Univ. of Lond., B.Sc.; F. G. Kahl, Worc. Coll., Oxf., B.A.; A. Lyell, Trin. H., Camb., B.A.; B. S. Bhagat; C. R. Beddington, Ball. Coll., Oxf., B.A.; R. D. Steward-Brown, Trin. Coll., Camb., B.A.; G. V. Chowdray, King's Coll., Lond., LL.B.; C. H. Chorley, Trin. Coll., Oxf., B.A.; I. Hosang; R. M. Greg, Trin. Coll., Oxf., M.A.; N. T. Hankin, Worc. Coll., Oxf., B.A.; G. C. Dare, Gonv. and Caius Coll., Camb., B.A.

MIDDLE TEMPLE.

S. A. Rafique, M.A., Christ's Coll., Camb.; C. B. R. Wright; A. S. Mobasser; O. A. Alakija, B.A., LL.B., Trin. Coll., Dublin; H. J. M. Flaxman; H. C. Balser, Licentiate of Law, Univ. of Berne; J. C. Pickup, B.M., B.S., Glasgow Univ., L.R.C.P., L.R.C.S., Edinburgh; E. G. D. Kathidjotis; K. S. S. M. Sadiq, B.A., Muslim Univ. of Aligarh; S. M. Jamil, B.A., St. Cath. Coll., Oxf., M.A., Punjab Univ.; Doris Gertrude Bushnell, B.C.L., St. Hugh's Coll., Oxf., B.A., Lond. Univ.; K. C. Koshy, B.A., Madras Univ.; K. Srinivasan, B.A., Madras Univ.; Y. S. Mahajan; Lucy Margaret Smith, M.A., Somerville Coll., Oxf.; Mary Ruth Schofield, LL.M., Sheffield Univ.; V. K. K. Menon, M.A., B.Sc. (Econ.), Lond. Univ., B.A., Madras Univ.; M. Wilcock-Holgate, B.A., Christ's Coll., Camb.; A. R. Colville, B.A., Keble Coll., Oxf.; G. M. Steavenson, B.A., Ch. Ch., Oxf.; A. Cosmo-Hamilton, B.A., Trin. Coll., Camb.; C. N. Lim; R. H. Small, LL.B., Lond. Univ.; N. Q. Dias, B.A., Lond. Univ.; Aziz Hooseinbhoy Abdoolabhoy Lalljee; J. A. Lloyd, B.A., Ball. Coll., Oxf.; G. B. Parker, B.A., LL.B., Jesus Coll., Camb.; Kantamany Venkata Narayana, B.A., Andhra Univ.; M. A. R. Sutherland, B.A., King's Coll., Camb.; Phayom Lekyananda; K. D. Williamson, B.A., Trin. Coll., Camb.; Babulal Tulshidas Modi; J. C. P. Ellison, B.A., Trin. Coll., Camb.; D. Carmichael, M.A., LL.B., Glasgow Univ.; J. A. Boyd-Carpenter, B.A., Ball. Coll., Oxf.; Maganlal Harjivandas Gandhi, M.A., LL.B., Bombay Univ.

GRAY'S INN.

R. E. Pollock, B.A., Pemb. Coll., Camb.; J. Jackson, Univ. of Lond.; F. H. Baker, K. J. Lindsay, Univ. of London.; C. C. M. Logan, Ch. Ch., Oxf.; Ll. M. G. F. Cabral, B.A., B.C.L., St. Cath. Soc., Oxf.; Krishna Singh Thaper, B.A., B.Lit., St. Cath. Soc., Oxf., M.A., Punjab Univ.; Wing Kon Loo, B.A., Lingnan Univ., Canton, China; D. Loudoun, Univ. of Lond.; J. P. Stubbs, B.A., O.C.C., Camb.; D. A. Jenkins, B.A., LL.B., Sid. Suss. Coll., Camb.; E. N. Griffith-Jones; J. B. W. Anderson.

Gray's Inn.

GRAND DAY.

Thursday, 15th November, being the Grand Day of Michaelmas Term at Gray's Inn, the Treasurer (Mr. G. D. Keogh) and the Masters of the Bench entertained at dinner the following guests: The Danish Minister (Count Preben Ahlefeldt-Laurvig), Viscount Hailsham, The Master of the Rolls (Lord Hanworth), Lord Horder, Sir Paul Lawrence, Sir Lancelot Sanderson, K.C., Sir Charles Sherrington, O.M., Sir Basil Blackett, Sir Edward Chamier, Sir Christopher Clayton, M.P., Lieut.-Gen. Charles Grant, The Headmaster of Merchant Taylors' School (Mr. Spencer Leeson), Dr. E. Leslie Burgin, M.P. (Parliamentary Secretary, Board of Trade).

The Benchers present, in addition to the Treasurer, were Sir Dunbar Plunket Barton, K.C., Mr. Herbert F. Manisty, K.C., Mr. Edward Clayton, K.C., Lord Atkin, Sir William Byrne, Sir Montagu Sharpe, K.C., Sir Cecil Walsh, K.C., Lord Greenwood, K.C., Sir Walter Greaves-Lord, K.C., M.P., Lord Morison, Mr. James Whitehead, K.C., Mr. R. Storry Deans, Mr. A. Andrewes Uthwatt, Mr. Malcolm Hilbery, K.C., Mr. Noel Middleton, Mr. N. L. C. Macaskie, K.C., Mr. W. Trevor Watson, K.C., Sir Albion Richardson, K.C., with the Preacher (Canon F. B. Ottley), and the Under-Treasurer (Mr. D. W. Douthwaite).

The Law Society.

PROVINCIAL MEETING, 1935.

The Hastings, St. Leonards and District Law Society have invited The Law Society to hold their Provincial Meeting at Hastings in 1935. At the Provincial Meeting held at Newcastle-upon-Tyne a resolution was passed unanimously that the invitation should be accepted and the Council have adopted the resolution.

The Hardwicke Society.

A meeting of the Society was held on Friday, 9th November, at 8 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. D. H. McMullen moved : " That this house approves of the measures taken by the Minister of Transport to reduce road accidents." Mr. T. M. Symmons opposed. There also spoke Mr. Llewellyn Thomas, Mr. Sturge, Mr. Willard Sexton, Mr. Hare, Mr. T. H. Mayers (Hon. Treasurer), Mr. Sweeny, The Hon. F. P. Howard (Hon. Secretary), Mr. A. Newman Hall, Mr. Buller, and The Hon. E. B. Howard. The hon. mover having replied, the house divided, and the motion was lost by nine votes.

A meeting of the Society was held on Friday, 16th November, at 8 p.m., in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. T. H. Menzies moved : " Fascism offers the best solution for the salvage of civilisation." Mr. Granville Sharpe (ex-President) opposed. There also spoke Mr. Schofield, Mr. D. Walker Smith, Mr. Yahuda, Mr. F. R. Burford, Mr. G. Armitage, Mr. Llewellyn Thomas, Miss Wood, Mr. J. A. Petrie, Mr. Thorne, Mr. T. K. Wigan, Mr. Schaeffer, Mr. A. L. Ungoed Thomas (ex-President), The Hon. E. Howard. The hon. mover having replied, the house divided, and the motion was lost by twenty-six votes.

United Law Society.

A meeting of the United Law Society was held on the 12th November, in the Middle Temple Common Room. Mr. J. A. Plowman proposed " That the decision of the Court in *Attorney-General* v. *Corke* [1933] 1 Ch. 89, was good sense but bad law." Mr. H. Wentworth Pritchard opposed. Miss C. Colwill and Messrs. F. Howard Butcher, H. S. Wood-Smith, R. W. Bell, S. A. Gibbons, J. H. Vine Hall and O. T. Hill spoke and Mr. Plowman replied. The motion was carried by four votes.

A meeting of the United Law Society was held on the 19th November in the Middle Temple Common Room. Mr. G. Bull proposed " That the gratuity system should be abolished." Mr. R. G. Plowman opposed. Messrs. O. T. Hill, J. Buckley, R. E. Ball, J. H. Menzies and H. Everett spoke, and Mr. Bull replied. The motion was carried by four votes.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 13th November, 1934 (Chairman, Mr. R. J. A. Temple), the subject for debate was : " That this House deplores the entry of Russia into the League of Nations." Mr. J. C. Christian Edwards opened in the affirmative ; Mr. L. F. Sturge opened in the negative.

The following members also spoke : Mr. H. Peck, Miss H. M. Cross, Messrs. J. E. Terry and R. W. Jackling, Miss U. A. Hastie, Messrs. R. Morgan, J. R. Campbell Carter, M. V. P. Foulis, P. H. North Lewis, P. W. Iliff and D. B. Verne. The opener having replied, the motion was lost by five votes. There were sixteen members and one visitor present.

At a meeting of the society held at The Law Society's Court Room, on Tuesday, 20th November, 1934, Mr. H. O. Danckwerts presided and the following hypothetical case was argued :—

Jones v. *British Operas Ltd.*

Brown, in furtherance of a fraud, represented to the plaintiff that he was the owner of 1,000 ordinary shares in the defendant company. The plaintiff agreed to buy 500 of Brown's shares at the price of £5 per share. Brown drew up a form of transfer, and took it to Williams, the secretary of the defendant company, who was a friend of his, asking him to certify the transfer. Williams was given a cursory view of a document which appeared to be a share certificate and which Brown then placed in an envelope and gave to him. Williams honestly certified the transfer, and did not look further at the alleged certificate. Brown produced the transfer to the plaintiff, received the purchase money, and absconded. Finding that Brown had never held any shares in the defendant company, Jones brought this action for damages.

Messrs. E. V. E. White and S. Samson appeared for the plaintiff and Messrs. E. C. Durham and J. G. MacAndrew appeared for the defendant. Mr. E. V. E. White having replied the case was debated by the House. There spoke for the plaintiff : Messrs. M. Batten, J. F. Terry, J. H. G. Buller and E. H. Townend ; and for the defendant : Messrs. L. J. Frost and G. Russo. Mr. H. O. Danckwerts summed up and delivered judgment for the defendant.

Solicitors' Managing Clerks' Association.

A meeting will be held on Friday, 30th November, 1934, in the Middle Temple Hall, by kind permission of the Benchers, when Mr. N. R. Fox-Andrews will deliver a lecture on " Some Points on the Road Traffic Act." The chair will be taken at 7 o'clock precisely by The Hon. Mr. Justice Talbot. Meeting ends at 8 p.m.

Solicitors' Benevolent Association.

The usual monthly meeting of the Directors was held at 60, Carey-street, London, W.C.2, on the 7th November, Mr. Norman T. Crombie (York), in the chair. The other Directors present were : Sir A. Norman Hill, Bart., Sir Edmund Cook, C.B.E., and Messrs. F. E. F. Barham, Ernest E. Bird, Guy S. Blaker (Henley), Arthur C. Borlase (Brighton), P. D. Botterell, C.B.E., A. J. Cash (Derby), T. G. Cowan, T. S. Curtis, Ernest F. Dent, C. W. Lee, J.P., C. G. May, R. C. Nesbitt, L. F. Paris (Southampton), H. White (Winchester), and T. Gill (Secretary). Seven hundred and sixty-three pounds was distributed in grants to necessitous cases ; seventeen new members were admitted, making the total number of subscribers 6,000. Mr. T. G. Cowan was elected Chairman for the ensuing year ; and other general business was transacted.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that the Honour of Knighthood be conferred upon The Hon. Mr. Justice SINGLETON and The Hon. Mr. Justice PORTER, in virtue of their appointment to be Justices of the High Court of Justice, King's Bench Division.

The King has been pleased to give directions for the appointment of Mr. C. R. W. SETON (President, District Court, Palestine) to be a Puisne Judge of the Supreme Court of Judicature of Jamaica.

Mr. A. RALPH THOMAS has been elected a Master of the Bench of Middle Temple.

PROFESSOR ROBERT WARDEN LEE, D.C.L., F.B.A., Fellow of All Souls College, Oxford, Rhodes Professor of Roman-Dutch Law in the University of Oxford, and Mr. HUBERT JOSEPH WALLINGTON, K.C., have been elected Benchers of the Honourable Society of Gray's Inn.

The Very Rev. WALTER ROBERT MATTHEWS, D.D., Dean-Designate of St. Paul's, who was preacher of Gray's Inn from 1920 to 1931, has been elected an Honorary Bencher of the Society.

Mr. D. J. REASON, Deputy Town Clerk of Ilford, has been appointed Town Clerk of Greenwich in succession to Mr. F. J. Simpson. Mr. Reason was admitted a solicitor in 1922.

Professional Announcements.

(2s. per line.)

Messrs. PETTIT & WESTLAKE, solicitors, of 63 and 65, Baker-street, W.1, announce that they have taken into partnership Mr. PETER PETTIT, the elder son of Mr. Charles E. Pettit. The name of the firm will continue to be " Pettit & Westlake."

Wills and Bequests.

Mr. Edward William Dawes, solicitor, of Saltburn-by-the-Sea, and of Middlesbrough, left £11,316, with net personalty £4,947.

Mr. Samuel Reuben Ginn, D.L., J.P., solicitor, of Cambridge, left £100,818, with net personalty £98,701.

Mr. George Robert Malkin, solicitor, of Reigate, and of Martin-lane, E.C., left £13,208, with net personalty £9,405.

Mr. Donald S. Mackay, solicitor, of York, late Official Receiver in Bankruptcy, left £27,734, with net personalty £25,381.

Mr. Thomas Moses Evans, solicitor, of Llandebie Carmarthen, left £9,289 (net personalty nil).

Mr. Hubert Gough, retired solicitor, of Enfield, left £84,409, with net personalty £76,151.

Mr. Hedley James Carpenter, solicitor, of Tiverton, left £5,532, with net personalty £2,692.

Mr. Edward Stuart Richards, solicitor, of Cunard House, E.C., left £6,423, with net personalty £4,096.

Mr. Gilbert Slater, retired solicitor, of Huddington Court near Droitwich, left £41,839, with net personalty £39,458.

DRIVING LICENCE DISQUALIFICATION.

At the Nottingham Assizes recently Charles, J., suggested the magistrates should use more freely their power to impose upon convicted motorists disqualification from holding a licence to drive a motor as "perhaps the best way to reduce the appalling total of road accidents." The learned judge said: "A great many motorists don't mind at all being fined £5 or £10, and they often drive away from the court at a higher speed than ever before. But there is a very effective method of dealing with them, and that is by preventing them from driving at all."

SHOPKEEPERS AND CLEARANCE OPERATIONS.

The Minister of Health received a deputation recently from the Manchester Shopkeepers Organisation.

The deputation was introduced by Mr. Alan Chorlton, C.B.E., M.P., and Mr. A. E. G. Fuller, M.P.

The object of the deputation was to bring to the Minister's notice the position of shopkeepers occupying shops in slum clearance areas. The deputation urged in particular that the powers which local authorities now possess to pay allowances to shopkeepers who suffer loss as a result of clearance operations are inadequate, and asked that compensation should be made payable as a matter of right.

The Minister said that he would give careful consideration to the views expressed by the deputation, though it was not possible for him to make any definite statement in advance of the housing legislation which the Government would shortly introduce.

BLACKSTONE PRIZE.

A Blackstone Prize of £105, twelve of which are offered annually to students of the Middle Temple by the Masters of the Bench, has been awarded to Mr. R. M. A. Chetwynd-Talbot, B.A., of Magdalene College, Cambridge, for Criminal Law and Procedure.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON GROUP I.

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	MR. JUSTICE EVE. Witness. Part I.	MR. JUSTICE BENNETT. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Nov. 26	Ritchie	Hicks Beach	*Blaker	Hicks Beach
„ 27	Blaker	Andrews	*Jones	*Blaker
„ 28	More	Jones	*Hicks Beach	Jones
„ 29	Hicks Beach	Ritchie	*Blaker	*Hicks Beach
„ 30	Andrews	Blaker	Jones	Blaker
Dec. 1	Jones	More	Hicks Beach	Jones
	MR. JUSTICE CROSSMAN. Non-Witness.	MR. JUSTICE CLAUSON. Non-Witness.	MR. JUSTICE LUXMOORE. Witness. Part II.	MR. JUSTICE FARWELL. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Nov. 26	Jones	More	*Ritchie	*Andrews
„ 27	Hicks Beach	Ritchie	Andrews	*More
„ 28	Blaker	Andrews	*More	*Ritchie
„ 29	Jones	More	Ritchie	Andrews
„ 30	Hicks Beach	Ritchie	*Andrews	*More
Dec. 1	Blaker	Andrews	More	Ritchie

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 6th December, 1934.

	Div. Months.	Middle Price 21 Nov. 1934.	Flat Interest Yield.	‡Approximate Yield with redemption
ENGLISH GOVERNMENT SECURITIES			£ s. d.	£ s. d.
Consols 4% 1957 or after	FA	118¼	3 7 8	2 17 4
Consols 2½%	JAJO	90¾	2 15 0	—
War Loan 3½% 1952 or after	JD	107⅜	3 5 2	2 19 3
Funding 4% Loan 1960-90	MN	119¼	3 7 0	2 18 1
Funding 3% Loan 1959-69	AO	104	2 17 8	2 15 6
Victory 4% Loan Av. life 29 years	MS	118	3 7 10	3 1 1
Conversion 5% Loan 1944-64	MN	124	4 0 8	2 0 7
Conversion 4½% Loan 1940-44	JJ	116	3 17 7	1 12 3
Conversion 3½% Loan 1961 or after	AO	109½	3 3 11	2 19 4
Conversion 3% Loan 1948-53	MS	105¾	2 16 8	2 9 6
Conversion 2½% Loan 1944-49	AO	101½	2 9 3	2 7 6
Local Loans 3% Stock 1912 or after	JAJO	96	3 2 6	—
Bank Stock	AO	382½	3 2 9	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	92½	2 19 6	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	96	3 2 6	—
India 4½% 1950-55	MN	113	3 19 8	3 7 8
India 3½% 1931 or after	JAJO	97	3 12 2	—
India 3% 1948 or after	JAJO	88	3 8 2	—
Sudan 4½% 1939-73 Av. life 27 years	FA	125	3 12 0	3 2 5
Sudan 4% 1974 Red. in part after 1950	MN	116	3 9 0	2 15 0
Tanganyika 4% Guaranteed 1951-71	FA	116	3 9 0	2 15 0
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	102	2 18 10	2 16 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	112½	4 0 0	2 10 9
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	111	3 12 1	3 5 4
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	105xd	3 11 5	3 5 5
Canada 4% 1953-58	MS	113	3 10 10	3 1 9
*Natal 3% 1929-49	JJ	100	3 0 0	3 0 0
*New South Wales 3½% 1930-50	JJ	103	3 8 0	—
*New Zealand 3% 1945	AO	100	3 0 0	3 0 0
Nigeria 4% 1963	AO	112	3 11 5	3 7 0
Queensland 3½% 1950-70	JJ	101	3 9 4	3 8 4
South Africa 3½% 1953-73	JD	107	3 5 5	3 0 2
*Victoria 3½% 1929-49	AO	102	3 8 8	—
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	96	3 2 6	—
*Croydon 3% 1940-60	AO	100	3 0 0	3 0 0
Essex County 3½% 1952-72	JD	106	3 6 0	3 1 3
*Hull 3½% 1925-55	FA	103	3 8 0	—
Leeds 3% 1927 or after	JJ	97	3 1 10	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	108	3 4 10	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	88½	2 16 6	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	96	3 2 6	—
Manchester 3% 1941 or after	FA	98	3 1 3	—
*Metropolitan Consd. 2½% 1920-49	MJSD	101	2 9 6	—
Metropolitan Water Board 3% "A" 1963-2003	AO	98	3 1 3	3 1 5
* Do. do. 3% "B" 1934-2003	MS	99	3 0 7	3 0 8
Do. do. 3% "E" 1953-73	JJ	100	3 0 0	3 0 0
Middlesex County Council 4% 1952-72	MN	113	3 10 10	3 1 0
† Do. do. 4½% 1950-70	MN	115	3 18 3	3 5 7
Nottingham 3% Irredeemable	MN	96	3 2 6	—
Sheffield Corp. 3½% 1968	JJ	106	3 6 0	3 4 2
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	116½	3 8 8	—
Gt. Western Rly. 4½% Debenture	JJ	126½	3 11 2	—
Gt. Western Rly. 5% Debenture	JJ	133½	3 14 11	—
Gt. Western Rly. 5% Rent Charge	FA	132½	3 15 6	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	131½	3 16 1	—
Gt. Western Rly. 5% Preference	MA	117	4 5 6	—
Southern Rly. 4% Debenture	JJ	116	3 9 0	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	112½	3 11 1	3 6 2
Southern Rly. 5% Guaranteed	MA	131½	3 16 1	—
Southern Rly. 5% Preference	MA	117½	4 5 1	—

*Not available to Trustees over par. † Not available to Trustees over 115.
‡In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

LEGACIES.

THE suggestions of the legal adviser have great weight with most testators, and an appeal is made for the claims of ST. DUNSTAN'S to be borne in mind when charitable bequests are under consideration. St. Dunstan's is solely responsible for the training, settlement and lifelong care of nearly two thousand men who have been blinded as the result of their service for King and Country.

All information from: THE SECRETARY,

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This Hospital which is isolated from the natural sources of charity, has for over 70 years been serving the sick and suffering children of the East End of London, and during that period has treated over 1,400,000 little patients.

Patrons: THEIR MAJESTIES THE KING AND QUEEN.
Chairman: BRIG.-GENERAL SIR HILL CHILD, C.B., C.M.G., D.S.O., M.V.O.

ANNUAL REPORT and full particulars of the work gladly supplied by the Acting Secretary, Mr. D. T. ROBERTS. (Phone: East 5068.)

Telephone: HOLBORN 0584 (3 lines).

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THE EXCEPTIONALLY DESIRABLE
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Entrance Hall, Two Reception Rooms, Seven Principal Bed and Dressing Rooms, Secondary Bed Rooms, Three Bath Rooms and Complete Offices.
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NATIONAL INSTITUTE FOR THE DEAF

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(LONDON BRIDGE, S.E.1)

NEEDS HELP.

President: H.R.H. THE PRINCE OF WALES, K.G.

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NUMBER of BEDS and COTS, 647

(Including 31 Cubicles for Paying Patients).

Over and above the income from its endowments, the Hospital is dependent upon support from other sources for general purposes to the extent of over

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A copy of the Annual Report of the Hospital will be sent, together with any further particulars required, on application to the Clerk, Counting House, Guy's Hospital, London Bridge, S.E.1.

Phone: Hop 4740.
Treasurer: F. P. WHITBREAD.
Bankers: THE BANK OF ENGLAND.

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